

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 14 OCTOBER 2010 AT 7:00 PM

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# CITY OF COCKBURN

## MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 14 OCTOBER 2010 AT 7:00 PM

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### PRESENT:

#### ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Ms H Attrill	-	Councillor
Mr I Whitfield	-	Councillor
Ms L Smith	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mrs S Limbert	-	Councillor

#### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr D. Vickery	-	Acting Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Ms L. Boyanich	-	Media Liaison Officer
Ms V. Viljoen	-	PA to Chief Executive Officer

### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00pm.

### 2. APPOINTMENT OF PRESIDING MEMBER (If required)

Not applicable.

### 3. DISCLAIMER (To be read aloud by Presiding Member)

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written



advice from the Council prior to taking action on any matter that they may have before Council.

The Presiding Member advised the meeting that the Chief Executive Officer had received a letter from Clr Robyn O'Brien, wherein she resigned her position as Central Ward Councillor with effect 14 October 2010.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

Nil

**5 (OCM 14/10/2010) - APOLOGIES AND LEAVE OF ABSENCE**

- |                            |   |         |
|----------------------------|---|---------|
| ❖ Deputy Mayor Kevin Allen | - | Apology |
| ❖ Clr Val Oliver           | - | Apology |
| ❖ Clr Lee-Anne Smith       | - | Apology |

**6 (OCM 14/10/2010) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

A written response to a question raised at the Ordinary Council Meeting held on 9 September 2010 by Mr Ray Woodcock in relation to the comments made by the Mayor of the City of Wanneroo, John Kelly regarding local Councils being give policing powers, was forwarded to him on 14 September 2010.

A written response to a question raised at the Ordinary Council Meeting held on 9 September by Mr John Cunai in relation to "shopping trolleys", was forwarded to him on 17 September 2010.

**7 (OCM 14/10/2010) - PUBLIC QUESTION TIME**

**Patrick McBride - Chairman, Cockburn Bowling & Recreational Club**

*Item 17.2 – Cockburn Bowling and Recreation Club – Operational Review and Business Plan for the Development of Facilities and Proposed Relocation to Visko Park*

Q1 *Why is it "questionable" the current regime could manage the new facility?*

A1 This matter is reported based on the conclusions of the Consultant's Review which (in part) states, as follows:



- *The Club should consider formalizing its governance structure, potentially replacing the current management committee with a board of directors.*
- *The Club should seriously consider a much greater role for social members, including the right to vote in elections for the committee/board (although not for the Bowling Committees), the right to vote at general meetings and the right to membership (if elected) of the committee/board.*

So it was within the context of those statements within the Consultant's Review that the word "regime" is used. The word "regime" is used in the contexts of the management structure, and it is certainly not intended to personalize current or past members of the Bowling Club's Board.

- Q2 *Why is the "amount owing" by the Club included in this summary? We are in disagreement with how the amounts have been done. We have had several meetings with Council Officers regarding this and they cannot produce to us the receipts and figures that we are asking for, so we deny liability, not for all of it but for a great amount of it.*
- A2 This matter is reported based on the Club's recent written request for invoiced amounts to be "expunged by Executive Order". This is a matter that only Council can determine, which is why the matter is mentioned in the report.

*The report states there is "conjecture" about some members not wishing to relocate. Mr McBride assured Council that at the time of the survey it was obvious they would lose but he believed new memberships would be attracted to the Club once the move had occurred.*

### **Linda Wines – Banjup**

#### *Item 14.3 – Referral from the City of Armadale Relating to the Proposed Amendment to North Forrestdale Stage 1 Structure Plan*

- Q1 *Who do the owners of businesses affected by the road changes address their compensation claims to, the City of Cockburn or the City of Armadale, should the proposed changes take place?*
- A2 This matter will need to be Taken on Notice and a written response will be sent to Ms Wines.
- Q2 *On behalf of residents and businesses in Warton Road and Hebe Road, what does Council intend to do for the Ratepayers of the City of Cockburn and for the business owners in the area that will be disadvantaged by these road changes?*



Q2 The Presiding Member advised that Council would give due consideration to the item on the agenda.

**Steve Srhoy – Spearwood**

*Item 17.2 – Cockburn Bowling and Recreation Club – Operational Review and Business Plan for the Development of Facilities and Proposed Relocation to Visko Park*

*Mr Srhoy stated that he was a Foundation Member and a Life Member of the Cockburn Bowling and Recreation Club. Is Council aware of the association between the Fruitgrowers Association and the Bowling Club?*

*Mr Srhoy was proud to say that his father was the owner of the Spearwood Fruitgrowers Association which, in 1962, gifted to the then Cockburn Shire the 15 acres of land on which Council and the Cockburn Bowling and Recreation Club are currently located. There are many other members of the Club whose fathers were members of the Fruitgrowers Association at the time the land was gifted.*

*The Club has been very successful since its inception not only to its members but to the community at large for the last 45 years. These facilities have been provided at virtually no cost to the Council but now the clubhouse building has reached its use by date and needs relocation. On two occasions the majority of members have strongly supported the move to Visko Park and have many residents around Visko Park. For the Cockburn Bowling Club to be relocated on a main arterial road at Visko Park, a growth area of the City, a major focal point for the City of Cockburn will be created. I feel that we can provide a continued community service to the residents of the City of Cockburn and maintain facilities for our current and future members for many years to come.*

The Presiding Member acknowledged the significant contribution made by the Spearwood Fruitgrowers Association to the development of this area of Spearwood and, of course, this particular site where the Council and the Bowling Club are located, and assured Mr Srhoy that Council would give due consideration to the item on the agenda.

**Dan Sherr – Coogee**

*Item 17.1 – Coogee Beach Surf Life Saving Club – Building Design*

Q1 *In reviewing the attachments to this item, there does not appear to be any illustration of how the surf club will look like when viewed from the beach. This is an issue that has been troubling ratepayers for some time. Is it possible to provide a representation of what the Surf Lifesaving Club will look like to a beach goer? Will it be elevated or will it be nestled in the dunes? What is the height, exactly, and what is it in relation to the current landscape?*





- A1 The CEO stated that there were a number of items still to come before Council in the next few months, including the lease and there was no reason why such an impression could not be provided to Council in the near future.

**8. CONFIRMATION OF MINUTES**

**8.1 (MINUTE NO 4359) (OCM 14/10/2010) - MINUTES OF THE ORDINARY COUNCIL MEETING - 09/09/2010**

**RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday, 9 September 2010 as a true and accurate record.

**COUNCIL DECISION**

MOVED Cllr S LIMBERT SECONDED Cllr H ATTRILL that the recommendation be adopted.

**CARRIED 6/0**

**9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE**

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil

**11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (If adjourned)**

Nil



**12 (OCM 14/10/2010) - DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER**

Nil.

AT THIS POINT IN THE MEETING, THE FOLLOWING ITEMS WERE CARRIED BY AN 'EN BLOC' RESOLUTION OF COUNCIL:

14.1	14.8	14.10	15.1	16.1	17.1
14.2	14.9	14.11	15.2		17.3

**13. COUNCIL MATTERS**

**13.1 (MINUTE NO 4360) (OCM 14/10/2010) - LOCAL GOVERNMENT ELECTIONS - 2011 (CC/E/002) (D GREEN)**

**RECOMMENDATION**

That Council:

- (1) declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2011 ordinary elections, plus any extraordinary elections and/or polls of electors; and
- (2) decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the elections be as postal elections.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION** MOVED Cllr I Whitfield SECONDED Cllr H Attrill that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/0**

**Background**

Council is required to conform with legislation procedures prior to each ordinary election day, if it wishes to undertake its elections by postal voting. This relates to declaring the Electoral Commissioner to be responsible for the elections and that the method of voting be by postal vote.



**Submission**

N/A

**Report**

There will be four (4) vacancies on Council for the 2011 elections, being one Councillor each in West and Central Wards and two in East Ward.

Retiring Councillors are Councillor Reeve-Fowkes (West), Councillor Limbert (Central) and Councillors Whitfield and Attrill (East).

Council has recently received correspondence from the Western Australian Electoral Commissioner advising of its agreement to be responsible for the conduct of these elections, plus any extraordinary elections and/or polls of electors.

The correspondence also contains an implied invitation for Council to utilise the Commissioner's services to undertake the elections on Council's behalf.

To comply with the provisions of the Act, Council is required to adopt the recommendations relative to the decisions to utilise the Commissioner to conduct the elections and to conduct them by postal vote.

Council first used this method at the inaugural elections of a new Council (Mayor and 9 Councillors) in December, 2000, following the dismissal of the previous Council.

The resultant voter turnout of over 43% was a vast improvement on previous "in person" elections held by council, which typically attract about 10% voter participation.

Even the more than 32% participation rate in the 2007 elections was encouraging, given that there were only four (4) vacancies contested. The most recent elections in 2009 attracted a 31% participation rate for the Mayoral plus five (5) Councillor vacancies.

As Council's budget has accommodated estimated costs of conducting the elections by post, it is recommended that Council continue with this method which should guarantee healthy community input to these elections.



**Strategic Plan/Policy Implications**

**Governance Excellence**

- *To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.*
- *Council Policy SC8 “Conduct of Elections by postal ballot” refers.*

**Budget/Financial Implications**

\$155,000 is required within the Governance (Elections) Account to cover costs associated with the Election.

**Legal Implications**

Part 4 of the Local Government Act, 1995, and the Local Government (Elections) Regulations, 1997 (as amended) refer.

**Community Consultation**

N/A

**Attachment(s)**

N/A

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

N/A

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (MINUTE NO 4361) (OCM 14/10/2010) - LEASE OF LOT 100 RIVERS STREET, BIBRA LAKE - LOCATION: RIVERS STREET, BIBRA LAKE - OWNER: CITY OF COCKBURN - APPLICANT: ARCH ENGINEERING PTY LTD (4412345) (L GATT) (ATTACH)**

**RECOMMENDATION**

That:

- (1) Council lease Lot 100 Rivers Street, Bibra Lake to Arch Engineering Pty Ltd subject to the proposal being advertised in accordance with Section 3.58 of the Local Government Act



1995;

- (2) subject to no objections being received on the advertised proposal, enter into formal lease arrangement for a period of two (2) years at an initial annual rental of \$85,000 plus GST with CPI increases to the rental each anniversary and on any option periods thereafter;
- (3) the lease includes the option of further one year extensions at the discretion of the City;
- (4) the costs for the valuation and any costs associated with the preparation of the lease agreement are to be borne by the lessee; and
- (5) the provisions of the lease include a requirement for the lessee to remove all improvements at the end of the lease period, if required.

#### **COUNCIL DECISION**

MOVED Cllr T Romano SECONDED Cllr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

#### **Background**

Lot 100 is owned in freehold by the City of Cockburn and has an area of 3636 m<sup>2</sup>. Council at its meeting held on 11 August 2005 resolved to:

- (1) *lease Lot 100 Rivers Street, Bibra Lake to PIV Engineering Pty Ltd subject to the proposal being advertised in accordance with Section 3.58 of the Local Government Act 1995;*
- (2) *advise PIV Engineering Pty Ltd that all necessary statutory approvals must be obtained prior to undertaking any works which include a requirement for development approval pursuant to the City of Cockburn Town Planning Scheme No. 3 and full compliance with any approval granted will be expected;*
- (3) *subject to Council receiving no submissions on the advertised proposal, enter into a formal lease arrangement for a period of five (5) years at a rental to be based on the Licensed Valuer's report; and*



- (4) *the provisions of the lease include a requirement of the lessee to remove all improvements at the end of the lease period, if required.*

On 9 October 2008 Council considered a report to lease the property to Arch Engineering and resolved the following:

- (1) *lease Lot 100 Rivers Street, Bibra Lake to Arch Engineering Pty Ltd subject to the proposal being advertised in accordance with Section 3.58 of the Local Government Act 1995;*
- (2) *subject to Council receiving no submissions on the advertised proposal, enter into formal lease arrangement for a period of two (2) years at an annual rental of \$85,000 plus GST;*
- (3) *advise Arch Engineering Pty Ltd that at their cost all necessary statutory approvals must be obtained prior to undertaking any works including a requirement for development approval pursuant to the to the City of Cockburn Town Planning Scheme No. 3 and full compliance with any approval granted will be expected; and*
- (4) *the provisions of the lease include a requirement for the lessee to remove all improvements at the end of the lease period, if required.*

### **Submission**

Arch Engineering Pty Ltd has written to the City requesting the lease of the property for a further two years with options at the end of this period at the City's discretion. They have given their in principle support to an annual rental of \$85,000 ex gst with CPI Increases on each anniversary including any option periods.

### **Report**

Lot 100 is a vacant land parcel zoned "industry" with an area of 3636m<sup>2</sup>. Rivers Street comprises of nine developed industry lots with the subject lot and one other as yet undeveloped.

The proposed lease offered by the City of Cockburn in August 2005 was not acceptable to PIV Engineering and the land continued to be unused until Arch Engineering entered the lease agreement in 2008.

The City's provisional land strategy identifies Lot 100 as being land possibly available for sale. The land could be sold as is, although consideration may be given to developing the site into individual factory units in a joint venture arrangement.



The City of Cockburn Operations Centre adjoins the southern boundary of Lot 100. A concept plan developed for the Operations Centre shows a possible alternative access point utilizing Lot 100. It was anticipated, in 2008, that it would take two years to determine if this alternative access point would be required however Council officers have now advised that it will take at least another two years to determine whether this alternative access point will be required.

The term of the proposed lease allows the City to continue to derive an income stream while the ultimate use for Lot 100 is being considered.

At the conclusion of the two year lease Council officers will consider whether to offer Arch Engineering a further one year option period.

Arch Engineering is located at 9 Rivers Street adjoining Lot 100 and is currently using the site for storage of raw material.

Arch Engineering have given their in principle support to the lease fee of \$85,000 plus GST per annum. The proposed lease being a standard commercial lease means that outgoings including Council rates will be paid by the lessee.

Section 3.58 of the Local Government Act 1995 requires that details of the proposed rent, the market rent as determined by a licensed valuer and the name of the lessee be given state wide notice.

The City has obtained a valuation report from McGees Valuers (refer confidential attachment), which confirms that the lease fee proposed by Arch Engineering is satisfactory.

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

#### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Section 3.58 of the Local Government Act 1995.



### **Community Consultation**

Advertising in the West Australian will be undertaken as a requirement of Section 3.58 of the Local Government Act 1995.

### **Attachment(s)**

1. Location Plan.
2. Valuer's Report – confidential attachment.

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.2 (MINUTE NO 4362) (OCM 14/10/2010) - PROPOSED RECYCLING AND RECOVERY OF NATURAL AND INERT MATERIALS - LOCATION: LOT 9 (NO. 950) ROCKINGHAM ROAD, HENDERSON - OWNER: RCG PTY LTD - APPLICANT: RED SANDS SUPPLIES PTY LTD (3411590) (M SCARFONE) (ATTACH)**

#### **RECOMMENDATION**

That Council advise the Western Australian Planning Commission ("WAPC") that the City of Cockburn recommends refusal of the application for the recycling and recovery of natural and inert materials at Lot 9 (No. 950) Rockingham Road, Henderson for the following reasons, and that this report be referred to the WAPC as supporting documentation:

1. The proposal is considered likely to present an unacceptable impact on the amenity of nearby residents, particularly with regard to dust and noise.
2. The subject site is identified by the Draft Latitude 32 – District Structure Plan as being part of Precinct 7 Northern Transport. The proposal is considered to be incompatible with the preferred land uses for this precinct and, as such, should not be supported.
3. The subject proposal does not comply with the generic buffer outlined in the document *'Guidance for the Assessment of Environmental Factors Western Australia (in accordance with*





*the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses’.*

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

On 25 February 2010 the City received an application for the use of land at Lot 9 (No. 950) Rockingham Road, Henderson as a recycling and material recovery facility.

In accordance with the provisions of the *Hope Valley Wattleup Redevelopment Act 2000* (“Act”), the details of the application were referred to the Western Australian Planning Commission (“WAPC”) in their role as determining authority for the development.

Various requests have been made to the applicant to provide the City with additional information regarding the operation of the proposal and its appropriateness given the proposed breach of the generic buffer outlined in the document *‘Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses’.*

The information provided to the City does not adequately address the City’s concerns with regard to potential dust and noise impacts on surrounding residential properties nor does it provide adequate justification for the nominated 1000 metre buffer to be reduced. As such it is recommended that the application be recommended for refusal and the WAPC advised as such.

**Submission**

The proponent has provided a comprehensive Management Plan (refer to agenda attachments) which describes the activities to be undertaken on the subject site and the measures to be put in place to ensure the development complies with relevant legislation. In addition, the Management Plan provides details with regard to site operations, including hours of operation, pollution control, waste management,



proposed landscaping and bunding. It also includes a summary of revegetation measures to be undertaken.

The main aspects of the proposal are summarised in the table below.

<b>Aspect</b>	<b>Proposal Characteristic</b>
Total area of operation	6 hectares.
Processing, recycling and sorting	2 hectares.
Stockpiles	4 hectares
Recycling and screening	50,000 to 100,000 tonnes per year
Life of project	20 years.

## **Report**

### Hope Valley Wattleup Redevelopment Act 2000

As stated, the subject site is located within the Hope Valley Wattleup Redevelopment Area and is affected by the provisions of the *Hope Valley Wattleup Redevelopment Act 2000*. Under the provisions of the Act, the City's Town Planning Scheme No. 3 ceases to apply and the WAPC becomes the determining authority. Under the provisions of Clause 26 of the Act, the City may make recommendations to the WAPC within 42 days of receiving an application for planning approval, or within a longer timeframe if agreed with the WAPC. It is important to note that the City is a referral agency only, and the WAPC is the ultimate determining authority.

### Hope Valley Wattleup Redevelopment Project Master Plan – Proposed Amendment No. 4

The Hope Valley Wattleup Redevelopment Project Master Plan ("Master Plan") acts as a defacto Town Planning Scheme for the Hope Valley Wattleup Redevelopment Area. Amendment No. 4 to this document is currently undergoing public consultation. The Master Plan identifies the subject site as being located within 'Precinct 7 – Northern Transport'. The proposed recycling and material recovery facility would be considered to meet the definition of 'Industry - General' a 'D' or discretionary use within Precinct 7.

### Hope Valley Wattleup Draft District Structure Plan

The Draft Hope Valley Wattleup District Structure Plan has been prepared by Landcorp and its partners to guide future development of the area. The Draft District Structure Plan identifies the subject site as being within Planning Area No. 7 - Northern Transport, an area considered likely to be used for land uses such logistics, warehouses, container handling, storage and distribution.



It is considered that the subject development is not consistent with the long term vision for the locality; particularly given it is proposed that the use operate for a period of up to 20 years. This is fundamental to the City's consideration of the impact that the proposal will have, and is one of the key considerations in recommending the refusal of the application.

### Comment

On 25 February 2010, Red Sands Supplies Pty Ltd lodged an 'Application for approval to undertake development' with the City. On 2 March 2010 the application was referred to the WAPC in accordance with Section 26 of the Act for its determination. This referral indicated that the City would provide a recommendation to the WAPC in due course. The application was presented through the DCU process on 31 March 2010, after which concern was raised by health services regarding the detrimental impacts of noise and dust from the proposed use, and the impacts that these will have on residential amenity.

Following receipt of comments from internal stakeholders the applicant was advised by letter and email of the need to provide a comprehensive report justifying a reduction in the buffer nominated by the document '*Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses*'. This document nominates a buffer distance of 1000 metres from noise sensitive premises unless detailed justification is provided and considered satisfactory by the relevant stakeholders including in this instance the City of Cockburn, the Department of Environment and the WAPC.

While an Environmental Impact Assessment report was provided in support of the proposed development, the content of that report is not considered adequate to address the City's concerns regarding dust and noise. The applicant has been advised as such, and a more detailed submission requested. This remains outstanding, and the applicant has indicated that no further information will be submitted.

In addition to requesting further information from the applicant the City sought comments from all landowners within the 1000 metre buffer, sending out a total of 42 letters. As a result, seven (7) submissions were received including five (5) objections and two (2) non-objections.

The main concerns raised in objection to the proposal relate to dust and noise impacts from the existing recycling operation undertaken from the site.

In the absence of a more detailed Dust Management Plan and Acoustic Noise Assessment, and given the objections raised in response to the



consultation exercise undertaken, it is recommended that the proposed development should be refused consent. As such it is recommended that the Council object to the proposal and advise the WAPC accordingly.

### Conclusion

The proposed 'Recycling and Recovery Facility' is not considered to be an appropriate land use given its proximity to surrounding dwellings, its conflict with the long term provisions of the Hope Valley Wattleup District Structure Plan, and the fact that the proposal would breach the EPA buffer.

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

#### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

#### **Natural Environmental Management**

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

Land owners within the 1000 m buffer nominated by the EPA were consulted as a part of this process. Please see discussion above for further detail.

### **Attachment(s)**

1. Management Plan / Impact Assessment
2. Resident Submissions



### Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

### Implications of Section 3.18(3) Local Government Act, 1995

Nil.

**14.3 (MINUTE NO 4363) (OCM 14/10/2010) - REFERRAL FROM THE CITY OF ARMADALE RELATING TO THE PROPOSED AMENDMENT TO NORTH FORRESTDAL STAGE 1 STRUCTURE PLAN - OWNER: TILLBROOK NOMINEES PTY LTD - APPLICANT: TURNER MASTER PLANNERS (450779) (M CARBONE) (ATTACH)**

#### RECOMMENDATION

That Council:

- (1) advise the City of Armadale that for traffic safety reasons it supports changing the Hebe Road/Warton Road intersection to a left in/left out intersection;
- (2) advise the City of Armadale that the southern driveway to the tavern on the east side of Warton Road should also be configured, for traffic safety reasons, as a left in left out intersection, and that there be a continuous median between this driveway and Hebe road on the opposite side of Warton Road;
- (3) advise the City of Armadale that it does not support the extension of Southampton Drive through to Warton Road at the location shown on the revised Structure Plan, or any alternate location in the vicinity of Hebe Road, if it is intended to be configured as a full access intersection, however Council would have no objection if it were constructed as left in left out only at its Warton Road intersection.
- (4) advise the City of Armadale that it is to ensure that the Hybrid Court / Warton Road intersection is constructed to allow for safe right turn movements onto and off of Warton Road;
- (5) request that the City of Cockburn and City of Armadale jointly investigate whether right turn movements can be physically, practically and safely accommodated for the existing businesses operating along Warton Road in the vicinity of Hebe Road within the City of Cockburn;



- (6) in the event that driveway access off of Warton Road is not physically possible, or able to be provided whilst maintaining safety for road users, then officers from both the City of Armadale and the City of Cockburn are to liaise to determine what if any treatment can be provided to achieve a suitable access arrangement.

**COUNCIL DECISION**

MOVED Mayor L Howlett SECONDED Cllr T Romano that the recommendation be deferred until the November 2010 Ordinary Council Meeting.

**CARRIED 6/0**

**Reason for Decision**

Deferring this item will enable a detailed traffic safety audit to take place, together with additional consultation between the City of Cockburn and the City of Armadale. It should be noted that the Town Planner who put forward the proposal, with particular reference to road safety and road design, requested the decision to be deferred. The report that comes back to Council will also include submissions from concerned ratepayers in the area in order to come to a better outcome in terms of the design of the road intersections, etc.

**Background**

The City of Armadale has referred a proposed amendment to the North Forrestdale Stage 1 Structure Plan to the City of Cockburn for comment as it abuts the City's north eastern boundary.

The main issue impacting the City of Cockburn is the extension of Southampton Drive to Warton Road to create a full movement 3-way intersection and the associated down grading of the Hebe Road/Warton Road intersection to a left in/left out intersection (refer to Agenda attachments 1 and 2 - location plan and intersection plan).

In relation to changing the Hebe/Warton Road intersection to left in/left out, the applicant originally provided a petition signed by 4 affected landowners supporting the change to Hebe Road due to safety concerns. Three of these landowners have since changed their view on the intersection change and now object.



The City has undertaken its own consultation which involved sending letters to all landowners that will be impacted by the changes to the Hebe Road intersection which included Hebe Road and Hybrid Court residents. The City received two petitions objecting to the proposal, one submission objecting to the intersection change and one submission supporting it.

Council is required to provide comment to the City of Armadale on the proposed amendment to the structure plan, including changes to the Hebe Road/Warton Road intersection.

### **Submission**

Turner Master Planners have submitted an amendment to the North Forrestdale Stage 1 Structure Plan to the City of Armadale and this plan has been referred to the City of Cockburn for comment as it abuts the City of Cockburn's boundary and affects intersections along Warton Road.

### **Report**

The structure plan amendment proposes to;

- Provide for the extension of Southampton Drive to Warton Road,
- Update the density coding, subdivision road and open space to match the existing and approved subdivision layout.

The main issue impacting the City of Cockburn is the extension of Southampton Drive to Warton Road and the creation of a full movement 3-way intersection and the associated down grading of the Hebe /Warton Road intersection to a left in/left out intersection (refer to Agenda attachments 1 and 2 - location plan and intersection plan).

The City has sent letters to all landowners that will be impacted by the changes to the Hebe Road intersection which includes Hebe Road and Hybrid Court residents. The City has received the following comments:

- a petition signed by 28 people (14 households – most households had more than one person sign) objecting to the proposal;
- a petition signed by 80 customers of 'The Pampered Pooch Motel' objecting to the proposed changes;
- a petition signed by 73 customers of the kennel business operated by Mr Jack Maiolo at 16 Hebe Road, Banjup, objecting to the proposed changes;
- A letter from 'Ashridge Cattery and Kennels objecting to the changes; and
- A letter from the applicant of the structure plan supporting the changes.



The submissions are discussed in detail within the schedule of submissions (refer agenda attachment 4). The main concerns relate to the inconvenience caused by the inability to turn right into or out of Hebe Road. Concerns were also raised by the effect the changes to Hebe Road intersection will have on existing businesses operating along Warton Road and whether compensation will be granted for any losses.

It is noted that the Hebe Road/ Hybrid Court precinct is zoned to allow for Kennels and there are a number of Kennels and Catteries operating in this locality.

The proposed change to the Hebe Road/Warton Road intersection has been referred to the City's engineering section and they have provided the following comments:

- Regardless of whether Southampton Drive is connected to Warton Road, the construction of the Warton Road dual carriageway necessitates consideration for the need and/or opportunity to rationalise the number of full access intersections along Warton Road. As Hebe Road and Hybrid Court are connected to each other, provide access to only a small number of lots and have intersections along Warton Road that are only 240m apart, it is not necessarily required that both streets have full access to Warton Road. If Hebe Road were to be converted to a left in/left out intersection, a viable alternative route is still available to accommodate the right turning traffic via Hybrid Court.
- Due to the vertical geometry of Warton Road, there is an existing crest to the south west of Hebe Road. This crest impacts on the sight distance for vehicles turning into and out of Hebe Road and therefore creates an undesirable traffic environment now that Warton Road is a dual carriageway. (Refer Agenda attachment 5 for photos of this crest). At the same time, the proximity of the southern end tavern access driveway creates an undesirable intersection layout that will facilitate unsafe vehicle movements including u-turns at the Hebe Street intersection, if left as a full access intersection.
- To address the safety concerns, the most desirable treatment would be to have both Hebe Street and the south end driveway access/egress point for the tavern as 'left in-left out' only, and have a continuous median barrier treatment between the south and north bound carriageways at this location.
- If it were to be contemplated to keep Hebe Road open as a full access intersection, then it is strongly recommended that a full road safety audit be conducted both on the current design and on the as constructed work to determine if it is safe to be left in that configuration. This RSA would need to also incorporate the tavern driveway access points. Who funds this Road Safety Audit would also need to be determined, if contemplated.





- Any connection of Southampton Road to Warton Road in the vicinity of this south end tavern driveway would exacerbate the issues with the current layout, from a traffic safety perspective.
- Due to the layout of Warton Road, any connection of Southampton Road to Warton Road in the vicinity of Hebe Road or Hybrid Court should be 'left in-left out' only, unless it were to be traffic signal controlled (which is unlikely to be approved).

Concerns were also raised from Warton Road businesses that they will not be able to turn right into and out of their driveways due to the new median along Warton Road. However it is noted that the new Warton Road carriageway and the associated new median, which is being undertaken by the City of Armadale, is a separate issue and is outside the scope of the amendment to the structure plan and associated changes to Hebe Road. The new median and the difference of level between the two carriageways between Hebe Road and Hybrid Court will restrict access to businesses along Warton Road within the City of Cockburn, and there appears to have been little consultation with these landowners in relation to this matter. It is noted that there is at least one other property further south along Warton Road within the City of Cockburn which has been provided right hand turn access into their property. Accordingly it is recommended that the City of Cockburn and the City of Armadale jointly investigate whether right hand turn movements can be physically, practically and safely accommodated for the existing businesses operating along Warton Road in the vicinity of Hebe Road and Hybrid Court.

Given the above comments and the feedback received from residents, it is recommended that the City:

- a) agree to the partial closure of Hebe Road, to enable left in left out movement only, but that this be done in conjunction with a similar treatment for the tavern south end driveway entrance/exit. Also that there be constructed a continuous barrier median treatment between the north and south bound Warton Road carriageways in the vicinity of these two intersections.
- b) advise the City of Armadale that the City of Cockburn does not support the extension of Southampton Drive through to Warton Road on the alignment shown on their revised Structure Plan, or any other location in the vicinity of Hebe Road or Hybrid Court, if it is intended to be constructed as a full access intersection at Warton Road without traffic signal control.
- c) requests that further investigation be undertaken jointly by the City of Cockburn and City of Armadale into the opportunity and feasibility of providing right turn access off of Warton Road to existing businesses situated on the west side of Warton Road.



## **Strategic Plan/Policy Implications**

### ***Transport Optimisation***

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.
- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

## **Budget/Financial Implications**

The City of Armadale is undertaking the construction of the Warton Road carriageway with no costs incurred by the City of Cockburn.

## **Legal Implications**

*Planning and Development Act 2005*  
*City of Cockburn Town Planning Scheme No. 3*  
*Town Planning Regulations 1967*

## **Community Consultation**

All landowners within Hebe Road and Hybrid Court were invited to comment on the proposed modification to the Hebe Road/Warton Road intersection.

## **Attachment(s)**

1. Location plan
2. Intersection plan
3. Structure plan amendment
4. Schedule of submissions
5. Photos of Warton Road

## **Advice to Proponent(s)/Submissioners**

Those that made submissions or signed the petitions (and provided address details) have been advised that the matter will be considered at the 14 October 2010 Council meeting.

## **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



14.4 **(MINUTE NO --4364) (OCM 14/10/2010) - DEVELOPMENT OF MULTI LOT SUBDIVISION AT LOT 18 GRANDPRE CRESCENT & LOT 4076 SYKES PLACE HAMILTON HILL - OWNER / APPLICANT: CITY OF COCKBURN (2210277; 2200585; 141945) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Business Plan dated July 2010 for the development of Lot 18 Grandpre Crescent and Lot 4076 Sykes Place, Hamilton Hill as a residential subdivision;
- (2) authorise the preparation of subdivision design, specifications and tender documentation for the completion of all civil works required to complete the subdivision development;
- (3) following (2) above request a further report to award a tender for the completion of all subdivision civil works;
- (4) following (3) above request a further report to award an appropriate marketing and selling program for the subdivision lots;
- (5) note that all sales of future lots will comply with provisions of Section 3.58 of the Local Government Act 1995; and
- (6) allocate proceeds of the sale to the Land Development Reserve Fund.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr C Reeve-Fowkes that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/0**

**Background**

The site is currently undeveloped, except for a basketball practice apron and a children's playground.

The Phoenix Rise Master Plan identified this site as being appropriate for residential purposes. Subsequently the land has been rezoned and



application made to the Western Australian Planning Commission for subdivision approval.

The site consists of Lot 18 Grandpre Crescent a freehold lot, which has been owned by the City of Cockburn since 1977 and Lot 4076 a Crown Reserve effectively owned by the State of Western Australia. The relevant state government agencies have agreed to transfer Lot 4076 to the City of Cockburn for 5% of its market value as determined by the Valuer Generals Office.

### **Submission**

Nil

### **Report**

Section 3.59 of the Local Government Act 1995 requires a business plan to be prepared when a major land transaction has a value in excess of \$1,000,000. The subject development exceeds this threshold.

The Business Plan was advertised in the West Australian Newspaper on 14 July 2010.

At the conclusion of the statutory 6 week period allowed for the receipt of comment, no responses were received. It is anticipated that the civil works design, specification and tender preparation will be completed by November 2010. The Tender brief will be advertised and submissions sought from experienced and complying contractors. A report to award the contract will be presented for Council consideration. The civil works and completion of the survey plan creating the new lots is anticipated to allow sale of the lots in the first quarter of 2011.

The report to be considered by Council to award a marketing and sales contract will address market conditions existing at the time of the sales program. Possible marketing and sales strategies could include sale by auction tender or private treaty. If sale of the lots is to be by private treaty then provisions of section 3.58 of the Local Government Act require that each sale is advertised in a newspaper with state wide distribution.

The basket ball apron and playground equipment will be relocated to a location within the adjoining Goodchild Park recreation area.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.



**Governance Excellence**

- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

**Budget/Financial Implications**

Funds to complete the subdivision civil works, surveying and legal requirements have been placed on the 2010 – 11 budget.

**Legal Implications**

Section 3.59 of the Local Government Act 1995 refers.

**Community Consultation**

The project was advertised in the West Australian newspaper as required by Section 3.59 of the Local Government Act.

**Attachment(s)**

1. Plan of Subdivision approved by WAPC.
2. Business Plan

**Advice to Proponent(s)/Submissioners**

As there were no submissions received as a result of the public advertising there is no one to advise.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

- 14.5 **(MINUTE NO 4365) (OCM 14/10/2010) - SALE OF LAND - PORTION OF LOT 8 KENT STREET , SPEARWOOD - APPLICANT: WATER CORPORATION - OWNER: CITY OF COCKBURN LOCATION: HAMILTON HILL - OWNER: CITY OF COOCKBURN (2203653) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) accept the offer to purchase Portion (704 square metres) of Lot 8 Kent Street, Spearwood , for a consideration of \$215,000 exclusive of GST from the Water Corporation for a pump station, subject to the Water Corporation, on request from the City of Cockburn, re-locating an existing emergency overflow pipe



within Lot 8 Kent Street to an alignment within the Kent Street road reserve;

- (2) note that the agreement in (1) above be prepared by the City of Cockburn's solicitor with all costs being borne by Water Corporation;
- (3) note that the disposition of portion of Lot 8 Kent Street Spearwood to the Water Corporation is an exempt disposition pursuant to Section 3.58 (3&4) of the Local Government Act 1995, and;
- (4) allocate proceeds of the sale to the Land Development Reserve Fund and amend the 2010/11 Statutory Budget accordingly.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

MOVED Clr C Reeve-Fowkes SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/0**

**Background**

Lot 8 has been owned by the City of Cockburn since 1974. Lot 8 Kent Street is a Council freehold lot being one of 6 such lots collectively known as Beale Park. Beale Park is primarily an active recreational facility and includes club rooms and soccer pitches. There is also an area of passive recreation on the corner of Kent and Sussex Street. This section which is approximately 90 metres wide and 45 metres deep contains playground equipment, and a drainage sump.

**Submission**

The Water Corporation has submitted a written request to acquire a portion of Lot 8 Kent Street, Spearwood. The area is required for a pump station as part of their infill sewerage program and has an area of 704 square metres. The submission includes an offer to purchase consideration of \$215,000 exclusive of GST, with all surveying and legal costs being borne by the Water Corporation.



## Report

The design of the infill sewerage system is such that the system has a gravity feed to the lowest level in the catchment. A pump station is then required to pump the waste water to a main sewer. The low point in this catchment and where there is sufficient room is on the corner of Kent Street and Sussex Street. Water Corporation initially assumed that this land was a crown reserve and only after it was pointed out that the land was council freehold did they initiate negotiations to formalize their occupation of the site.

Their first request was to gain an easement interest in the site. Western Power as the supplier of the power to the pump station would only do so if there was an agreement to exclude any building with 50 metres of the power transformer. This was deemed unacceptable by Council officers. The 50 metre buffer is not required if the pump station is within its own lot. Water Corporation then amended their proposal to an acquisition of the required land.

The Water Corporation obtained planning approval for the pump station and has substantially completed the works. A closer inspection of the pump station design and on-site inspection reveals that an emergency over-flow pipe has been constructed across Lot 8 to the existing storm water sump west of the pump station. This sump is within Lot 8 and serves the storm water requirements of the surrounding road system. This pipeline being 8 metres in from the front boundary has the possibility to adversely affect any future development on the land, The Water Corporation has agreed to remove the pipe and re-align it within the road reserve, if requested to by the City of Cockburn. It is believed that in order to protect the city's interests an agreement be formalized by the City's solicitor's at the cost of Water Corporation.

A copy of the valuation report has been provided by McGees valuer, and is included as a confidential attachment. The offer of \$215,000 by the Water Corporation is considered to be appropriate given that the City of Cockburn has not initiated the sale and that the sale and construction of the pump station has diminished the opportunity for the City to undertake development on this part of Beale Park.

Section 3.58 of the Local Government Act exempts certain dispositions from the provisions of the Act. A disposition to the Water Corporation being a department, agency, or instrumentality of the Crown in right of the State renders this disposition exempt.

Funds generated by the sale will be initially placed in the Land Development Reserve Fund.



## **Strategic Plan/Policy Implications**

### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

## **Budget/Financial Implications**

Proceeds of the sale will be transferred to the Land Development Reserve Fund.

## **Legal Implications**

Provisions of Section 3.58 of the *Local Government Act 1995* apply.

## **Community Consultation**

Details of the sale will be advertised in a newspaper for State wide publication, as required by Section 3.58 of the *Local Government Act 1995*.

## **Attachment(s)**

1. Offer to purchase.
2. Map Showing subject lot.
3. Valuer's Report – confidential attachment.

## **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

## **Implications of Section 3.18(3) Local Government Act, 1995**

Nil





**14.6 (MINUTE NO 4366) (OCM 14/10/2010) - SALE OF LAND - LOTS 183, 156 AND 157 SOUTHWELL CRESCENT, HAMILTON HILL - APPLICANT: HAMILTON HILL DEVELOPMENT ALLIANCE PTY LTD - OWNER: CITY OF COCKBURN (2200583) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the offer to purchase Lots 183, 156 and 157 Southwell Crescent, Hamilton Hill for a consideration of \$1,170,000 (excluding GST) from Hamilton Hill Development Alliance Pty Ltd;
- (2) agree that Hamilton Hill Development Alliance Pty Ltd be given access to Lot 183 Southwell Crescent to undertake due diligence;
- (2) request that a Business Plan that recommends acceptance of the offer in (1) above be prepared and advertised in accordance with Section 3.59 of the *Local Government Act 1995*;
- (3) seek a further report at the conclusion of the statutory six week advertising period as required by section 3.59 of the *Local Government Act 1995* to consider any submissions received during the advertising period; and
- (4) the 2010/11 adopted budget be amended accordingly to reflect the allocation of \$746,658 to Capital – Southwell Improvement and \$423,342 to the Land Development Reserve.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr C Reeve-Fowkes that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/0**

**Background**

Lot 183 on Diagram 57129 is a freehold lot owned by the City of Cockburn ("City"). Lots 156 and 157 on Diagram 57129 are former Pedestrian Access Ways that has been offered to the City by the state government (Department of Lands) for amalgamation with Lot 183. Lot 183 has been owned by the City since 1979.



The combined area of the land is 3865 m<sup>2</sup> and the zoning under City of Cockburn Town Planning Scheme No. 3 ("Scheme") is 'Residential R40'.

### **Submission**

The offer to purchase from Hamilton Hill Development Alliance Pty Ltd is not as a response of any marketing by the City or any real estate agent of the City. The offer is a cash offer with settlement within 150 days of the completion of the 30 day due diligence period.

### **Report**

The land parcel, being Lots 156, 157 and 183 Southwell Crescent, was identified in the Phoenix Rise Master Plan as being suitable for medium density residential development. An amendment to the Scheme rezoned the land to 'Residential R40' in order to facilitate this. Although the land area indicates that the site could yield 17 units, the irregular shape of the lot coupled with impacts from sewerage easements means that a yield of 13 units is possible.

Lots 156 and 157 will require transfer and amalgamation with Lot 183 to create a new integrated parcel. The consideration to be paid to the state government for Lots 156 and 157 will be determined by the Valuer General's Office. This valuation has been sought some months ago but is still outstanding. A valuation of these two small parcels has been supplied by Valuer McGees acting for the City (refer confidential attachments). The valuation from the Valuer General is expected to be close to the McGees valuation.

A market value of the land as a complete parcel is greater than \$1,000,000 and therefore considered to be a major land transaction. A Business Plan pursuant to Section 3.59 of the *Local Government Act 1995* is therefore required.

The process that will follow a resolution to accept the recommendation will be that Hamilton Hill Development Alliance Pty Ltd will be able to undertake their due diligence of the land parcel. The due diligence period is 30 days. Officers will complete the requirements to amalgamate the parcels in liaison with the State Government's Department of Lands. The Business Plan will have been prepared and an advertisement placed in the West Australian. The period for the receipt of submissions on the Business Plan is six weeks.

The offer can only be accepted once Council has been able to consider the Business Plan and any submissions received during the advertising period. Hamilton Hill Development Alliance Pty Ltd are aware of the requirements of the *Local Government Act 1995* in this respect.



## **Strategic Plan/Policy Implications**

### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

## **Budget/Financial Implications**

Proceeds of the sale will be utilised to complete outstanding road and landscaping upgrades throughout the Southwell area. Of the proceeds to be received, \$746,658 will be allocated to the Southwell project. The 2010/11 budget currently has \$253,342 allocated to fund the proposed works. The balance of the proceeds totalling \$423,342 will be transferred to the Land Development reserve. This expenditure is consistent with the endorsed Master Plan and associated implementation plan which place joint responsibility on both the City and the Dept of Housing to coordinate.

## **Legal Implications**

Provisions of Section 3.58 and 3.59 of the *Local Government Act 1995* apply.

## **Community Consultation**

Details of the sale will be advertised in a newspaper for State wide publication, as required by Section 3.58 of the *Local Government Act 1995*.

## **Attachment(s)**

1. Location Plan.
2. Title Diagram.
3. Valuer's Report – confidential attachment.

## **Advice to Proponent(s)/Submissioners**

The proponents have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

## **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**14.7 (MINUTE NO 4367) (OCM 14/10/2010) - OUTBUILDING  
LOCATION: LOT 53 (NO. 141) TAPPER ROAD BANJUP - OWNER:  
DARYL AND JOANNE WELLS - APPLICANT: DARYL WELLS  
(3318499) (P HIRST) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) Grant approval for an outbuilding at Lot 53 (No. 141) Tapper Road, Banjup, in accordance with the approved plans and subject to the following conditions:-
  1. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
  2. No construction related activities causing noise and/or inconvenience to neighbours being undertaken after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
  3. The primary use of the outbuilding hereby approved being to store a single commercial vehicle on the property.
  4. Prior to the construction of the outbuilding hereby approved, the existing outbuilding structures sited within the subject lot boundary (as highlighted on the attached approved plan) must be removed from the site and the land reinstated to its former condition.
- (2) advise the applicant of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr S Limbert that Council adopt the recommendation with the addition of sub-recommendation 5 to Item (1) as follows:

- (1) 1 – 4 as recommended;
5. The submission of a landscaping plan detailing suitable plantings around the shed to the City's satisfaction prior to the release of the Building Licence; and

Footnote:

The City recommends that additional landscaping be also provided across the remainder of the lot, particularly where the existing outbuildings are to be removed as required by Condition 4.



(2) as recommended.

**CARRIED 6/0**

### **Reason for Decision**

This property has lost much of its natural vegetation and the owners should be encouraged to revegetate the property in keeping with the semi rural nature of the land. Screening for the outbuilding and property in general will improve the visual amenity of the area and encourage native animals to return to the area.

### **Background**

Zoning:	MRS: Rural – Water Protection
	TPS3: Resource
Land use:	Single House
Lot size:	2.0038ha
Use class:	P

The subject site contains an existing single house, garage and outbuilding, all of which are currently used by the occupants of the property. A number of disused other outbuildings, including stables and sheds are also located on the property, many outside the approved building envelope. The applicant has confirmed it is intended to remove all of these structures before the commencement of construction.

The proposal incorporates an over height wall which at 5.0m in height, conflicts with the provisions of Council Policy APD18 ‘Outbuildings’. As such the determination of this application cannot be taken under delegated authority.

### **Submission**

The applicant seeks approval to construct an outbuilding with a wall height of 5 metres (in lieu of the 4 metres permitted as per Council policy), a ridge height of 5.8 metres, and a floor area of 162 m<sup>2</sup>. The construction of this outbuilding will result in the aggregate floor space of outbuildings on the subject site exceeding the 200 m<sup>2</sup> permitted as per Council policy (total of 264.4 m<sup>2</sup> proposed).

The applicant has provided justification for this departure from Council Policy, (see attachment) which is summarised as being required “to provide for the secure storage and screening of a single truck, which forms an essential part of the applicant’s occupation”.



## Report

### Policy Framework

The subject land is zoned 'Resource' under the provisions of the City of Cockburn Town Planning Scheme No 3 (TPS No. 3). In accordance with the requirements of TPS No. 3, the Council has the discretion to either approve (with or without conditions) or to refuse the application.

The proposed development has been assessed against the standards and provisions of:

- TPS No. 3
- Council Policy APD18 'Outbuildings'
- Statement of Planning Policy No 2.1 Peel-Harvey Coastal Plain Catchment Policy
- Statement of Planning Policy No. 2.3 Jandakot Groundwater Protection Policy
- Statement of Planning Policy No. 2.4 Basic Raw Materials.

The subject development proposes the following variations to the acceptable development provisions of Council's Policy APD18 'Outbuildings'.

- The aggregate floor area of outbuildings on the subject site is 264.4 m<sup>2</sup> in lieu of the 200 m<sup>2</sup> considered acceptable, and
- An outbuilding wall height of 5m in lieu of the 4m considered acceptable under the policy provisions.

While the proposed development is not consistent with Council's Policy APD18 'Outbuildings', it is considered to be consistent in principle, with the objectives of TPS No. 3, particularly in respect of the parking of a commercial vehicle within the Resource Zone.

In respect of this, Clause 5.10.8 of the scheme permits a single commercial vehicle to be parked on the subject site without approval from local government provided several conditions are met. These include the following:

- the protection of the amenity of surrounding land, and
- any repairs undertaken on the lot being carried out in an area which is fully screened from the street and adjoining properties.

There are no specific provisions within the Statements of Planning Policy 2.1, 2.3 or 2.4 that provide guidance in relation to this development.



Comment

While the proposed wall height and floor area represent a variation to Council Policy APD18, it is considered that these variations can be supported as the proposed structure will not have a significant impact on the amenity of the locality or adjoining property owners, and it is consistent with the objectives of the resource zone in terms of commercial vehicle parking. These conclusions are reached as:

- The proposed outbuilding is to be located behind the existing dwelling and setback approximately 83 metres from the primary street, 70 metres from the closest neighbouring house and a minimum of 30 metres from any common property boundary. These distances are sufficient to ensure that any adverse impact that may normally result from an outbuilding of the size and height proposed are removed.
- The proposed outbuilding is located within the approved building envelope for the subject lot.
- The proposed development will result in the removal from the lot, of a number of disused and unsightly structures. The removal of these structures will result in an improvement to the level of visual amenity within the locality.
- The removal of existing vegetation is not required in order to construct the proposed shed.
- The variations to the proposed outbuilding are necessary to accommodate the truck currently stored on the property and associated with the owner's occupation.

In this case the proposed outbuilding is to be used on for the storage of a single commercial vehicle associated with the owner's occupation, a use which is permitted on site without the approval of local government. The proposed development will not have a negative impact on the amenity of adjoining property owners, the locality, the natural landscape or the streetscape; as such it is considered to be consistent with the intent of Policy APD18 and TPS No. 3, and conditional approval is therefore recommended.

**Strategic Plan/Policy Implications**

APD18 'Outbuildings'

Statement of Planning Policy No. 2.1 "Peel-Harvey Coastal Plain Catchment"

Statement of Planning Policy No. 2.3 "Jandakot Groundwater Protection Policy"

Statement of Planning Policy No. 2.4 "Basic Raw Materials"

**Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.



- To ensure development will enhance the levels of amenity currently enjoyed by the community.

**Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

No adjoining landowners were consulted with in respect of this proposal.

**Attachment(s)**

1. Site Plan
2. Floor Plan
3. Front and rear elevations
4. Side elevations
5. Justification provided by applicant

**Advice to Proponent(s)/Submissioners**

The applicant has been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.8 (MINUTE NO 4368) (OCM 14/10/2010) - PROPOSED MODIFICATION TO SOUTH BEACH VILLAGE STRUCTURE PLAN - LOCATION: LOTS 366 AND 394 BREAKSEA DRIVE, NORTH COOGEE - OWNER: HUNTLEY CUSTODIANS LTD - APPLICANT: CODA ARCHITECTURE (SM/M/013) (R COLALILLO) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopts the Schedule of Submissions;
- (2) adopts the modified South Beach Village Structure Plan





("Structure Plan") prepared by CODA Architecture as shown within Attachment 4, subject to the addition of a notation specific to Lots 366 and 394 as follows:

*“Any future development of Lots 366 and 394 Breaksea Drive, North Coogee is to ensure that a suitable notification is placed on the Certificate of Title regarding the nearby proximity of the Bennett Avenue waste water pumping station. This notification is to be prepared under Section 165 of the Planning and Development Act 2005, and is to advise of the existence of the waste water treatment plant and that this may affect the use and enjoyment of the land by way of odour impacts.”;*

- (3) advise the Western Australian Planning Commission, the proponent and submissioners of Council's decision accordingly;
- (4) advise the proponent that adoption of the modified Structure Plan affects a density change only, and that future development of the land will be subject to planning approval based upon the requirements of the modified Structure Plan, City of Cockburn Town Planning Scheme No. 3 and associated Detailed Area Plan;
- (5) advise the Water Corporation that City officers request the opportunity to be involved with future planning of the Bennett Avenue wastewater pumping station and associated odour buffer to ensure the amenity and expectations of existing and future residents is represented; and
- (6) advise the proponent of the modified Structure Plan that Council is currently in the process of progressing an amendment to City of Cockburn Town Planning Scheme No.3, which seeks to introduce new developer contribution arrangements across the district towards community infrastructure. Landowners subdividing to create residential allotments will be required to make contributions in accordance with the new developer contribution arrangements once the Scheme Amendment becomes operational.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**



## **Background**

The original South Beach Village Structure Plan ("Structure Plan") was approved by Council in July 2002 and endorsed by the Western Australian Planning Commission ("WAPC") in April 2003. Since then, the Structure Plan has been subject to minor modifications, which were dealt with in accordance with the statutory requirements of City of Cockburn Town Planning Scheme No. 3 ("Scheme"). The current version of the Structure Plan is dated February 2009, a copy of which is contained in Attachment 2 to this report.

CODA Architecture (on behalf of the landowner) has submitted a proposal to modify the Structure Plan pertinent to Lots 366 and 394 Breaksea Drive, North Coogee ("subject land"). This is in order to affect a density change for the subject land, taking it from the current density of R100 to R125. Consideration of this proposed modification to the structure plan forms the basis of this report.

## **Submission**

Nil.

## **Report**

CODA Architecture has submitted a proposal to modify the South Beach Village Structure Plan specifically relating to Lots 366 and 394 Breaksea Drive, North Coogee. The subject land has an existing development approval in place for 81 multiple dwellings, which was granted by the City of Cockburn ("City") in November 2009. The approval included a mix of one, two and three bedroom apartments with associated car parking, store rooms, waste storage/removal facility and landscaped area.

Since receiving this approval, the landowner has been undertaking further analysis of the subject land's potential, specifically to ensure that the final built form outcome is the best possible considering the size and strategic location of the subject land. In this regard, the landowner engaged CODA Architecture to review the existing approval and structure plan, with a view at looking for opportunities to improve the built form outcome for the subject land.

The key area which was identified as an opportunity to improve was the varied response of proposed development to Rollinson Road, and in particular the 'vacant' south east corner of the subject land. In order to cater for an improved design and to 'complete' the Rollinson Road elevation, additional dwellings have been proposed to be accommodated within the south east corner of the subject land (as shown in Attachment 3).



In order to achieve the above, the current structure plan would require a density code change from Residential R60 – R100 to Residential R125 for the subject land (shown in Attachment 4). The proponent has identified the following main supporting arguments for the modification to the structure plan:

- Optimising the use of the land in such a prime/important location.
- Furthering the diversity offered by this development site in terms of dwelling mix to the South Beach location.
- Maximising the built response to Rollinson Road which is an important interface to the future Cockburn Coast area.
- The additional dwellings will be accommodated on the Rollinson Road side of the land, away from existing residences.

Consideration of this justification, together with the officer's assessment of the proposed structure plan, is contained following.

#### Current South Beach Village Structure Plan

The subject land currently has a density coding of Residential R60 – R100 within the existing structure plan and is one of 16 medium to high density lots across the estate. These grouped and multiple dwelling sites were included within the structure plan to frame views and mark key focal points within the development. They were also provided in order to ensure South Beach fulfils its objective to deliver an urban village-style development within a coastal environment. The flexible coding afforded to these sites was seen as an important opportunity to provide opportunities for different dwelling types and yields. The flexibility was also aimed at encouraging suitable diversity in terms of its affordability and population demographics within the overall estate.

The proposed modification to the structure plan, which seeks to increase the density coding of Lots 366 and 394 to R125, is considered to be consistent with the objectives of the current structure plan. The modification provides added scope for a greater dwelling mix to what has been provided by existing developments within the estate.

#### Directions 2031

Directions 2031 is the latest strategic document and framework for the future growth and development of the Perth Metropolitan Area and Peel Region. In recognising Perth's existing built environment and anticipated population growth, the Strategy reinforces the need for Perth to be more compact and ensure more efficient use of land and infrastructure. One of the key methods of achieving these objectives is providing for higher densities and innovative dwelling designs to cater for a variety of housing types and improved affordability.

It is noted that the ultimate purpose of the structure plan modification is to provide a higher density of residential development for the subject



land. Though of significant importance, such will also achieve a greater mix of dwelling types as well as providing a greater design response (compared with the existing approved development) to the surrounding context. In this regard, the proposed structure plan modification is considered to meet the strategic themes and requirements of Directions 2031.

#### Liveable Neighbourhoods

The current edition of Liveable Neighbourhoods reinforces the requirement for structure plan and subdivision design to provide for site-responsive design, enhanced local identity, development of frontages to streets, open spaces and a wider choice of housing, together with increased residential density.

In considering the proposed structure plan modification in respect of the above, it is noted that the subject land is within an area of high amenity value and can thus support higher densities of residential accommodation. Through the development assessment process it can also be ensured that street frontage activation is maximised by creating active residential street frontages across the entire site. The proposed minor increase in density also proposes to accommodate a wider range of housing options within the subject site. As such, the modified structure plan proposal conforms to the key elements of Liveable Neighbourhoods.

#### Cockburn Coast District Structure Plan

The Cockburn Coast District Structure Plan (“CCDSP”) is a significant urban regeneration project located to the south of South Beach estate. The Plan has been developed in order to provide for a vibrant, landmark destination that is connected, integrated and diverse. Consistent with this, the CCDSP nominates a variety of uses including Residential, Mixed Use and Parks and Reserves along Rollinson Road within the vicinity of the subject land.

The proposed modification to the structure plan provides scope for the built form of the subject land to align more appropriately with the northern interface of the CCDSP area along Rollinson Road. This is through the provision of a more contiguous or ‘complete’ elevation across the south of the subject land.

#### Statutory Planning Considerations

Officers reviewed the proposed modification to the structure plan and are supportive of the changes subject to a suitably amended development proposal for the subject land. The increase in density provides an opportunity to deliver a stronger ‘urban’ response to Rollinson Road, and improve upon the existing development approval accordingly. The modification to the structure plan is also considered to



enable a stronger diversity of accommodation types within the South Beach Estate. The facilitation of a stronger mix and increase in dwellings within the overall locality is supported given recent indications from developers that flexible code sites are likely to be developed to the lower density code as a result of current market trends.

It should be noted that final revised development plans have not been submitted to the City for its consideration as yet. It is anticipated that these will be lodged pending approval of the required modification to the structure plan. Any future revised development plans will be subject to a rigorous assessment process to ensure the proposal exceeds the high quality of the existing development approval for the subject land.

### Traffic Management

It is considered that the proposed increase in density of the subject land would not have a detrimental impact on existing and future traffic levels and circulation in the locality, or lead to unwanted parking of vehicles on road verges or adjacent properties. Discussions with the proponent regarding the future revised development have confirmed that additional crossover(s) and parking areas will be provided and utilised to improve access/egress to the subject land and provide for better manoeuvrability within the development. In due course when the development application is received it will be assessed to confirm the required number of bays to cater for residents and visitors for the proposed number of units is being provided.

### Consultation

The modified Structure Plan was not referred to the WAPC for comment in accordance with Clause 6.2.7.2 of the Scheme as it does not propose the subdivision of land. As such, the modified Structure Plan could proceed to public consultation without the approval or comment of the WAPC.

The modified structure plan was advertised for public comment from 7 to 28 September 2010 in accordance with the Scheme requirements. Five submissions were received, one being from the Water Corporation raising concerns with the proposal and four received from separate surrounding landowners stating various objections and/or concerns. The submissions that were received are set out and addressed in detail within the Schedule of Submissions (Attachment 5).

The Water Corporation raised concerns in relation to the proposed intensification of the site due to the subject land's proximity to the existing Bennett Street wastewater pumping station. The station currently has an assumed 50 metre radius odour buffer, which extends partly over the subject land.



The Water Corporation have advised that revised wastewater planning for the locality, taking into account the level of development anticipated by the CCDSPP, has determined that the throughput and capacity of the station may need to be increased. As a result, the future odour buffer may shift beyond the current 50 metre notional buffer. As such the Water Corporation does not support the proposal as it has the potential to increase the number of residents within the notional long-term odour buffer. The Water Corporation has indicated a potential buffer up to 150 metres (which is a maximum prescribed by EPA Guidance Statement No. 3).

City officers acknowledge the need for increased capacity within the station, and that this may lead to a potential change to its associated odour buffer. However, the proximity of existing and future residents within South Beach is such that a 150 metre odour buffer (compared with the current 50 metre buffer) would have a major deleterious impact. From an orderly and proper planning view point, this is not supported by officers. A 150 metre buffer would take in existing single houses along Breaksea Drive and Heirisson Way – the impact of this would be severe.

Rather than accept a buffer of this magnitude, officers see the need to be involved with future planning of the pump station, so as to ensure the amenity and expectations of existing residents is represented. The notion of creating a 150 metre exclusion zone is fundamentally opposed on this basis, given it completely disregards the reality which exists within the South Beach estate.

Accordingly, within the constraint of the existing odour buffer and noting the potential changes in the future, it is recommended instead that the proposed structure plan be suitably modified through adding the following notation specific to Lots 366 and 394:

*“Any future development of Lots 366 and 394 Breaksea Drive, North Coogee is to ensure that a suitable notification is placed on the Certificate of Title regarding the nearby proximity of the Bennett Avenue waste water pumping station. This notification is to be prepared under Section 165 of the Planning and Development Act 2005, and is to advise of the existence of the waste water treatment plant and that this may affect the use and enjoyment of the land by way of odour impacts”.*

The above recommended modification to the proposed structure plan is consistent with a condition which was imposed as part of the existing development approval for the subject land (based on advice from the Water Corporation). But importantly, it does not indicate any level of support to a future buffer of 150 metres which would take in existing residential development.



Imposing an arbitrary 150 metre buffer to address a still unknown future scenario is considered contrary to proper planning as well as the interests of existing landowners. It does not account for any known realities nor does it encourage approaches to make the buffer as small as possible. This view has also been expressed to the Water Corporation by the Department of Planning in its formulation of the CCDSP.

The bulk of the issues raised in the surrounding landowners objecting submissions have been dismissed as they relate to non-planning related matters such as property values, perceived anti-social behaviour and other similar concerns. As such, no other modifications to the proposed structure plan are recommended.

### Conclusion

It is recommended that Council approve the proposed Structure Plan modification subject to the addition of a suitable notation reflective of the concerns raised by the Water Corporation. Approval is recommended on the basis that it will facilitate a better built form design for the subject land as well as a greater mix and diversity of dwelling types. The modified structure plan is considered to reflect the objectives of the Cockburn Coast District Structure Plan, and the broader Directions 2031 strategic plan and Liveable Neighbourhoods design code.

### **Strategic Plan/Policy Implications**

The Planning Policy which apply to this item is SPD4 'Liveable Neighbourhoods'.

### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.
- To ensure development will enhance the levels of amenity currently enjoyed by the community.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A



### **Community Consultation**

The modified structure plan was advertised in the newspaper, on the City's website and letters were sent to affected landowners and relevant servicing authorities.

### **Attachment(s)**

1. Location Plan
2. Existing approved South Beach Village Structure Plan
3. Existing and Proposed Architectural Mass Models
4. Proposed modified South Beach Village Structure Plan
5. Schedule of Submissions

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.9 (MINUTE NO 4369) (OCM 14/10/2010) - PROPOSED METROPOLITAN REGION SCHEME AMENDMENT NO. 1193/57 (OMNIBUS AMENDMENT) - LOCATION/OWNER: VARIOUS (9119357) (D DI RENZO) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) receive the Metropolitan Region Scheme Amendment No. 1193/57; and
- (2) make a submission to the Western Australian Planning Commission as follows:
  1. Supporting proposal 19 of the Metropolitan Region Scheme Amendment 1193/57.
  2. Objecting to proposal 20 of the Metropolitan Region Scheme Amendment 1193/57, for the following reasons:
    - i. The subject land is located approximately 1.3km from the main emission points at Cockburn Cement. Over the past two years the City of Cockburn has received growing numbers of complaints from local residents about dust and (since 2005) odour from





Cockburn Cement. While it is believed that the greatest impacts are experienced by residents living within the Kwinana Air Quality Buffer, there have been significant numbers of complaints from residents living outside the buffer. There is evidence to indicate that the impacts from Cockburn Cement are not restricted to land located within the Kwinana Air Quality Buffer. While it is likely that the current emission levels will be reduced as a result of increased regulation by the Department of Environment and Conservation ("DEC"), and upgraded emission control technology by Cockburn Cement, this is not a certainty and may not be achieved within the next 5 years.

- ii. The objectives that are set out in *Directions 2031* are noted; however, it is not considered that this provides sufficient justification to facilitate urban development on land adjacent to the Kwinana Air Quality Buffer where it is known that there is potential dust and odour impacts.
- iii. It is not agreed that the proposal constitutes a "logical rounding off of the urban zone in this locality", as stated in the MRS Amendment report. It is considered that the logical edge to the urban zone in this area is the existing boundary of East Churchill Avenue. To allow for urban development right up to the buffer in a manner which does not reflect a logical planning approach is not considered to be appropriate.
- iv. The proposed boundary to the urban zone is unusual, which will make it difficult to prepare a structure plan. In particular, it will be difficult to prepare a structure plan that will interface with the 'Rural Living' zone in a manner that is acceptable in the short-term, in addition to facilitating connectivity to this area in the future if Cockburn Cement ceases operations. It is considered that this would compromise orderly and proper planning of this area in the future.
- v. It is noted that some of the lots appear to have as little as a 60m<sup>2</sup> proposed to be rezoned to urban. Having dual-zoned lots is highly undesirable, and will make it difficult to manage landowners' expectations. Rezoning a portion of lots is also problematic because this will potentially result in the creation of remnant lots inside the Kwinana Air

Quality Buffer with the potential for future dwellings, therein allowing intensification of sensitive uses within this buffer.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

The Western Australian Planning Commission ("WAPC") has resolved to amend the Metropolitan Region Scheme ("MRS") in accordance with the provisions of the *Planning and Development Act 2005*.

The amendment takes the form of an omnibus amendment for the South East and South West Corridor local governments, and the stated purpose of the amendment is to update various zones and reservations of the Perth Metropolitan Region Scheme ("MRS"). The amendment contains 21 MRS rezoning proposals, and two proposals are specifically relevant to the City of Cockburn.

The WAPC has recently commenced advertising of the proposed MRS amendment. Submissions are due by 22 October 2010, and as a directly affected agency it is necessary that the City of Cockburn make a submission on the amendment.

**Submission**

As mentioned above, two proposals are specifically relevant to the City of Cockburn (Proposals 19 and 20). These proposals are outlined and discussed below.

Proposal 19

*To rezone Lots 1, 10 & 301 Hope Road, Jandakot from rural zone to public purposes (CG) reservation (Attachment 1).*

Lots 1, 10 and 301 Hope Road, Jandakot are approximately 59.33ha and are owned by the Commonwealth of Australia, forming part of the Jandakot Airport landholding. This land is zoned rural under the MRS, which is considered to be an anomaly. The subject land is also zoned 'Rural' under the City of Cockburn Town Planning Scheme No. 3 ("TPS3").



The rezoning of the subject land from rural to public purpose under the MRS is considered to be a logical consolidation of Jandakot Airport landholdings, and is a more appropriate designation.

It is therefore recommended that Council supports Proposal 19, with no further comments.

### Proposal 20

*To rezone various lots along East Churchill Avenue, Wells Road, Jervois Street and Britannia Avenue, Beeliar from rural zone to urban zone (Attachment 2).*

The subject land is approximately 4.37 ha, and is comprised of 25 lots in private ownership. Six lots are wholly proposed to be rezoned from rural to urban, and 19 lots are partially proposed to be rezoned to urban, with the remaining portions of the lots to remain rural.

The subject land comprises of properties that are either vacant or contain existing dwellings and outbuildings. A number of properties contain scrub, although there are no significant areas of remnant vegetation.

The subject land is currently zoned 'Rural Living' under TPS3. The area in Beeliar bound by East Churchill Avenue to the north, Fanstone Avenue to the south, the Primary Regional Roads reservation to the west, and the Railway Reserve to the east is zoned 'Rural Living', and all of this area is located within the Kwinana Air Quality Buffer, with the exception of the subject land.

The MRS Amendment report (produced by the WAPC) outlines the following points of justification for the proposal:

- 1 *Directions 2031* provides a framework to guide the detailed planning and delivery of housing, infrastructure and services necessary to accommodate growth in metropolitan areas. It promotes a more consolidated growth strategy to improve the efficiency of existing public infrastructure, reduce the demand for new infrastructure and services, and avoid the spread of development that is not contiguous with the existing urban front.
- 2 In June 2008 the WAPC endorsed the joint release of the *Kwinana Air Quality Buffer Position Paper*. The position paper proposes a revised Kwinana Air Quality Buffer to provide more certainty of land use outcomes until it is reviewed again in 2008/09 when additional information is due to become available. The subject land is located outside the proposed Kwinana Air Quality Buffer and/or the 'area of investigation'.



- 3 The land to the north and west is zoned urban in the MRS, and subdivision and development approval has been issued for land to the west and east and development is proceeding.
- 4 A subdivision guide plan will be developed in the subsequent planning stages.
- 5 The proposal is considered a logical rounding-off of the urban zone in this locality.
- 6 Preliminary investigation indicates that there are a range of urban services in the locality which are available and/or can be extended as required.

*City of Cockburn's Environmental Health Comments*

Over the past two years the City has received growing numbers of complaints from local residents about dust and (since 2005) odour from Cockburn Cement. While it is believed that the greatest impacts are experienced by residents living within the Kwinana Air Quality Buffer, there have been significant numbers of complaints from residents living outside the buffer.

Between 2009 and 2010 the Department of Environment and Conservation ("DEC") received approximately 200 complaints about dust and/or odour from local residents, many of whom live outside the buffer. There have been complaints made to the Minister for Health about health effects and the WA Department of Health have been instructed to carry out dust monitoring to assess the validity of these claims.

In March 2010 the DEC released a new draft licence for Cockburn Cement for public comment. A total of 56 submissions were lodged, which indicates the significant level of public interest in emissions from Cockburn Cement. There have been at least three local rallies in 2010 to protest against Cockburn Cement, and the most recent rally was in August 2010 at Parliament House. This resulted in an admission from the Premier that there are acknowledged concerns about emissions from Cockburn Cement.

The DEC are currently considering legal action against Cockburn Cement for a discharge of dust in April 2010 that caused acute health effects for several residents.

The new DEC licence effectively increases regulatory pressure on Cockburn Cement in an environment where residents are demanding that DEC force Cockburn Cement to reduce their emissions. In response to this pressure, in August 2010 Cockburn Cement committed to capital expenditure of more than \$23 million to replace electrostatic precipitators on kiln 6 with more dependable bag-house



filters, to reduce the lime dust emissions. This upgrade is likely to take until early in 2012 and if successful they hope to continue to install similar technology on the other lime kiln 5 in 2013/15.

As outlined above, there is significant evidence to indicate that the impacts from Cockburn Cement are not restricted to land located within the Kwinana Air Quality Buffer. While it is likely that the current emission levels will be reduced as a result of increased regulation by DEC and upgraded emission control technology by Cockburn Cement, this is not a certainty and may not be achieved within the next 5 years.

The subject land is located approximately 1.3km from the main emission points at Cockburn Cement. It is therefore recommended that the City does not support rezoning of land.

#### *City of Cockburn's Planning Comments*

The objectives of *Directions 2031* to deliver the necessary housing, infrastructure and services to accommodate growth in metropolitan areas are noted. However, it is not considered that this provides sufficient justification to facilitate urban development on land adjacent to a buffer where it is known that there is potential dust nuisance.

It is not considered that the proposal constitutes a "logical rounding off of the urban zone in this locality", as stated in the MRS Amendment report. The logical edge to the urban zone is the existing boundary of East Churchill Avenue.

To allow for urban development right up to the buffer in a manner which does not reflect a logical planning approach is not considered to be appropriate. The proposed boundary to the urban zone is curved and unusual, which will make it difficult to prepare a structure plan. In particular it will be difficult to prepare a structure plan that will interface with the 'Rural Living' zone in a manner that is acceptable in the short-term, in addition to facilitating connectivity to this area in the future if Cockburn Cement ceases operations. It is considered that this would compromise orderly and proper planning of this area in the future if Cockburn Cement ceases operations.

It is noted that some of the lots appear to have as little as a 60m<sup>2</sup> proposed to be rezoned to urban (see Attachment 3). Having dual-zoned lots is highly undesirable, and make it difficult to manage landowner expectations in relation to the requirements for subdivision, development and land use. This is also problematic because it will potentially result in the creation of remnant lots inside the Kwinana Air Quality Buffer with the potential for future dwellings, therein allowing intensification of sensitive uses within this buffer.



For these reasons, it is recommended that Council do not support Proposal 20, and advise the WAPC accordingly, as outlined in the staff recommendation.

#### *Town Planning Scheme Implications*

In terms of implications on TPS3, the MRS Amendment will require amendments to be undertaken to ensure consistency between the MRS and the TPS3. Pursuant to section 124(3) of the *Planning and Development Act 2005* Council must resolve to prepare an amendment to the local planning scheme which renders the local planning scheme consistent with the region planning scheme. This is to occur no later than 90 days after the day on which the amendment to the region planning scheme has effect.

Where land is rezoned to urban under the MRS there is the opportunity, pursuant to section 126(3) of the *Planning and Development Act 2005*, for Council to request that the WAPC concurrently amend TPS3 so that it is consistent with the new MRS zoning. However, since it is not recommended that Proposal 20 be supported, it is not recommended that Council request the WAPC to concurrently amend TPS3.

If the WAPC proceed with Proposal 20 and this area is rezoned to 'Urban' under the MRS, it is considered that the most appropriate zoning under TPS3 would be 'Development', and inclusion within a 'Development Area', and a 'Developer Contribution Area'. This would require the preparation of a structure plan prior to subdivision. The 'Development Area' provisions for the area would underpin the 'Development' zoning, setting out more detailed guidance on the development of a local structure plan so that matters of orderly and proper planning are required to be addressed (within Schedule 11 of TPS3).

#### **Strategic Plan/Policy Implications**

##### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.
- To ensure development will enhance the levels of amenity currently enjoyed by the community.

##### **Lifestyle and Aspiration Achievement**

- To deliver our services and to manage resources in a way that is cost effective without compromising quality.



### **Budget/Financial Implications**

If the MRS is amended TPS3 would require amending to bring it into consistency with the MRS, and preparation, advertising and progression of these amendments would be covered by the strategic planning budget.

### **Legal Implications**

N/A

### **Community Consultation**

Submissions on the MRS Omnibus Amendment are due to the WAPC by 22 October 2010.

No consultation on the MRS Amendment is required by the City of Cockburn, however affected landowners have been advised by the WAPC, and copies of the MRS Amendment have been made available at the City of Cockburn administration building.

The City of Cockburn will undertake community consultation on all future amendments to the Scheme in accordance with the *Town Planning Regulations 1967*.

### **Attachment(s)**

1. Proposed MRS Amendment 1193/57 – Proposal 19
2. Proposed MRS Amendment 1193/57 – Proposal 20
3. Subject land for Proposal 20 (with Kwinana Air Quality Buffer shown).

### **Advice to Proponent(s)/Submissioners**

N/A

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**14.10 (MINUTE NO 4370) (OCM 14/10/2010) - DETAILED AREA PLANS FOR PORT COOGEE (STAGE 2B LANEWAY LOTS, LOT 331 MEDINA PARADE AND LOT 785 ORSINO BOULEVARD) - PREPARED BY: TAYLOR BURRELL BARNETT - PROPONENT: AUSTRALAND (PS/A/001) (T WATSON) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the Detailed Area Plans presented for Stage 2B Laneway Lots, Lot 331 Medina Parade and Lot 785 Orsino Boulevard, Port Coogee, North Coogee, prepared by Taylor Burrell Barnett for Australand, pursuant to the provisions contained under Clauses 6.2.15.5 and 6.2.15.8 of the City of Cockburn Town Planning Scheme No. 3; and
- (2) advise the applicant accordingly.

**COUNCIL DECISION**

MOVED Cllr T Romano SECONDED Cllr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

This report deals with three Detailed Area Plans (DAP's) for Port Coogee – two already approved by Council (to be amended) and one new one.

The DAPs to be amended are:

- Stage 2B Laneway Lots DAP. This DAP was conditionally approved by Council at its 13 March 2008 meeting, and officially approved following amendment in accordance with the conditions on 21 May 2008.
- Lot 331 DAP. This DAP was conditionally approved by Council at its 14 May 2009 meeting, and officially approved following amendment in accordance with the conditions on 3 June 2009.

The third DAP is for the development of small lots on what is currently Lot 785. This lot was initially intended to be developed with a multiple dwelling development. The lot is now proposed to be subdivided into





16 smaller single residential lots in accordance with the residential density code applicable to the land under the Revised Local Structure Plan (R80).

### **Submission**

#### Stage 2B Laneway Lots DAP

The following changes are proposed to the subject DAP:

- Extension of the building envelope for Lot 955 on the corner of Pantheon Avenue and Arabella Loop in an easterly direction.
- The relocation and increase in size of the 'Bin Pad' currently shown and approved for Lot 955 to a more appropriate location for waste collection (and catering for Lots 953 and 954 as well as Lot 955).

#### Lot 331 DAP

The following changes are proposed to the subject DAP:

- Removal of reference to building height in storeys noting the deletion of reference to such in the Revised Local Structure Plan.
- Modification of the text regarding balconies and their exclusion from plot ratio calculations.
- Consolidation and modification of the text regarding the manner in which development is to interface the surrounding public domain. In this regard, specific reference to the requirement for the interface to include *at least one balcony or courtyard accessible from a living room facing the public domain* is made.

#### Lot 785 DAP

The DAP for Lot 785 is similar to other DAP's for small lot development in the 'Dry Land Residential' area within Port Coogee. The DAP addresses amongst matters:

- Key elements to be considered in the design of dwellings
- Dwelling setback requirements, including the extent to which parapet walls can be erected on side boundaries
- Dwelling height
- Access and garage requirements.

Where the DAP does not refer to an alternate standard, the applicable standard is that prescribed in the Residential Design Codes (R-Codes) or the City's Town Planning Scheme No.3 and/or Policies.



## Report

### Stage 2B Laneway Lots and Lot 331 DAP's

The changes to the DAP's for Stage 2B Laneway Lots and Lot 331 are minor and should amount to better development outcomes on the land covered by these planning controls. It should be noted that following receipt and review of the DAP's, the applicant was asked to make several changes. These included:

- The revised bin pad locations for Lots 953, 954 and 955. It was seen as opportune to make this change following discussion with the City's Waste Manager; and
- The requirement for engagement with the public domain to occur via an internal living room as opposed to the option of a living room or bedroom as is currently the case for Lot 331.

With respect to the second point above, the applicant agreed with the City's expectation that connections between the public and private domain should be via a living room, precluding bedrooms as a sole option in this regard.

### Lot 785

This DAP provides a site-specific layer of planning information, to be considered in the design and development of the lots covered by the document. The information is to be considered within the framework of the Revised Local Structure Plan as well as the R-Codes and the City's Planning Scheme and/or Policies.

### Consultation

Where a DAP may affect landowners other than the owner of the land subject of the Plan, the City may undertake consultation. In the case of the subject DAP's, consultation has not occurred taking into account the following:

- Stage 2B Laneway Lots. The two lots adjoining Lot 955 are currently owned by Australand, that is, they are yet to be sold;
- Lot 331 is surrounded by undeveloped land owned by Australand; and
- Lot 785. The builtform that will arise from the approved subdivision and development of this land with 'small-lot' dwellings will be no greater in scale and presentation to adjacent dwellings than the previous multiple dwelling development approved for the lot. Furthermore, the form of development will be similar to be developed adjacent to the southern side of the land.



It should be noted that the proposed DAPs do not seek to modify the building height restrictions, specified in the approved Local Structure Plan.

### Conclusion

The DAP's covered in this report provide detailed controls for the development of individual lots within Port Coogee. The content of the DAP's, including required changes, is considered acceptable and it is recommended they be approved by Council. The approval of the DAP's is in accordance with the provisions of 6.2.15.5 of the Scheme in the case of Lot 785, and 6.2.15.8 in the case of the two amended DAP's.

### **Strategic Plan/Policy Implications**

APD 31 'Detailed Area Plans'

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.
- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act 2005

### **Community Consultation**

The DAP's have not been the subject of consultation



**Attachment(s)**

1. Location/Revised Local Structure Plan
2. Detailed Area Plan Stage 2B Laneway Lots
3. Detailed Area Plan Lot 331
4. Detailed Area Plan Lot 785

**Advice to Proponent(s)/Submissioners**

The proponent has been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.11 (MINUTE NO 4371) (OCM 14/10/2010) - DEDICATION OF LAND AS ROAD RESERVE PURSUANT TO SECTION 56 OF THE LAND ADMINISTRATION ACT 1997 - PORTION OF LOT 2121 PLAN 22417 (RESERVE 45959) ROLINSON ROAD, NORTH COOGEE (2213450,450664) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) request the Minister for Lands to dedicate portion of Lot 2121 on Plan 22417 (Reserve 45959) Rollinson Road North Coogee as road reserve pursuant to Section 56 of the Land Administration Act 1997;and
- (2) indemnify the Minister for Lands against reasonable costs incurred in considering and granting this request.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

The land to be dedicated is a section on the corner of Rollinson Road and Bennett Avenue measuring 7.5 metres by 4.8 metres and being portion of Reserve 45959 on Lot 2121 on Plan 22417. Reserve 45959



is a crown reserve managed by the City of Cockburn for the purpose of drainage.

### **Submission**

McMullen Nolan consulting surveyors for the South Beach Development (Stockland) on the north side of Rollinson Road have written to Council with the road widening request. They have provided a plan of the proposed widening on advice from subdivision consulting engineers Wood and Grieve.

### **Report**

A condition of the subdivision on the north side of Rollinson Road requires the subdivider Stockland to upgrade the four way intersection at Rollinson Road and Bennett Avenue by the construction of a round about. The design of the proposed round-about by consulting engineers Wood and Grieve has high-lighted a requirement for a minor excision from Lot 2121. The excision will result in a verge width of 3 metres sufficient for the re alignment of services. The minor excision has no impact on the function of the drainage sump with-in Reserve 45959. The existing fencing will be re placed on the new boundary as part of the road works contract.

As the request will enable the construction of the roundabout which in turn will improve road safety at this 4 way intersection, it is recommended that Council facilitate the road widening by requesting the Minister for Lands to dedicate the required portion of land as road reserve.

The procedure for dedication is set out in Section 56 of the *Land Administration Act 1997*, with Section 56(4) specifically requiring the local government to indemnify the Minister in respect to all costs and expenses reasonably incurred by the Minister in considering and granting the request. This forms the essence of the officer recommendation.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.



**Budget/Financial Implications**

The dedication is pursuant to Section 56 of the *Land Administration Act 1997*, which requires the City to indemnify the minister in respect to all costs and expenses, incurred considering and granting the request. These cannot be quantified at this time, but are expected to be minor.

All costs associated with surveying and fencing will be borne by the subdivider of the subdivision Stockland.

**Legal Implications**

Provisions of Section 56 of the Land Administration Act 1997 apply.

**Community Consultation**

N/A

**Attachment(s)**

Plan of Proposal

**Advice to Proponent(s)/Submissioners**

The proponents have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

**15.1 (MINUTE NO 4372) (OCM 14/10/2010) - LIST OF CREDITORS PAID - AUGUST 2010 (FS/L/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for August 2010, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**



**Background**

It is a requirement of the Local Government (Financial Management) Regulations 1996, that a List of Creditors be compiled each month and provided to Council.

**Submission**

N/A

**Report**

The list of accounts for August 2010 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

**Strategic Plan/Policy Implications**

**Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – August 2010.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**15.2 (MINUTE NO 4373) (OCM 14/10/2010) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - AUGUST 2010 (FS/S/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated reports for August 2010, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

Regulation 34(2) requires the Statement of Financial Activity to be accompanied by documents containing:-

- (a) details of the composition of the closing net current assets (less restricted and committed assets);
- (b) explanations for each material variance identified between YTD budgets and actuals; and
- (c) any other supporting information considered relevant by the local government.

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents be presented to Council within 2 months after the end of the month to which the statement relates.

The regulations require the information reported in the statement to be shown either by nature and type, statutory program or business unit. The City has chosen to report the information according to its organisational business structure, as well as by nature and type.

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2010/11 financial year.





**Submission**

N/A

**Report**

The City's closing position of \$63.9M was \$3.2M greater than the YTD budget. This was mainly due to operating revenue being ahead of the YTD budget by \$1.4M and the operating expenditure YTD budget being underspent by \$2.2M.

On the revenue side, the major contributors are the waste services levy (\$0.4M), Henderson Recovery Park income (\$0.3M) and rates (\$0.5M). An unfavourable variance is currently showing for FAGS general purpose grant funding (\$0.5M), however this is only a timing issue.

Most business units of the City are currently showing underspends in their operating expenditure with the more significant ones being Community Services (\$0.45M), Waste Services (\$0.41M) and Parks and Environmental Services (\$0.44M). However, these are expected to diminish somewhat as the year progresses. Specific details of the material variances within each Business Unit are shown in the Variance Analysis section of the financial report.

The capital expenditure program is showing an over spend of \$0.22M as at the end of August. This has reduced from the \$0.98M figure reported in July and has been artificially caused by the incorrect cash flowing of whole budgets for many capital projects against the month of June 2011. These will be recalibrated in due course.

Council's cash and current/non-current investment holdings of \$94.25M has increased significantly from the \$60.5M at the end of July. This represents a substantial collection of the property rates levied in 2010/11 and that were due for payment (in whole or in an instalment) by August 20. The ratio of payments received is similar to that of the past few years. The elimination of the discount for payment in full (in its second year) continues to have little effect on the City's rate of recovery.

Of this total cash and investment holding, \$41.8M represents the City's cash reserves, with another \$5.5M being restricted purpose funds. With a total holding closing in on \$100M, the City is well placed to benefit from the abnormally high term deposit rates currently on offer. The City currently holds \$77M of its portfolio in term deposit products.

**Description of Graphs and Charts**

There is a bar graph tracking Business Unit operating expenditure against budget. This provides a very quick view of how the different units are tracking and the comparative size of their budgets.



The Capital Expenditure graph tracks the ytd capital spend against the budget. It also includes an additional trend line for the total of ytd actual expenditure and committed orders. This gives a better indication of how the capital budget is being exhausted, rather than just purely actual cost alone.

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year.

Council's overall cash and investments position is provided in a line graph with a comparison against the ytd budget and the previous year's position at the same time.

Pie charts included show the break-up of actual operating income and expenditure by nature and type and the make-up of Council's current assets and liabilities (comprising the net current position).

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

Material variances identified of a permanent nature (ie. not due to timing issues) may impact on Council's final budget position (depending upon the nature of the item). These will be assessed and considered for inclusion in the mid-year budget review.

### **Legal Implications**

N/A

### **Community Consultation**

N/A

### **Attachment(s)**

Statements of Financial Activity and associated Reports - August 2010.

### **Advice to Proponent(s)/Submissioners**

N/A



**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**15.3 (MINUTE NO 4374) (OCM 14/10/2010) - 2010/11 BUDGET AMENDMENTS - CARRIED FORWARD WORKS AND PROJECTS & 2009/10 BUDGET SURPLUS (FS/B/001) (N MAURICIO) (ATTACH)****RECOMMENDATION**

That Council amend the 2010/11 Municipal Budget as follows:

- (1) the figures for Carried Forward Works and Projects be amended, as set out in the schedule attached to the Agenda, totalling adjustments of \$2,436,833 to both expenditure items and their designated funding sources;
- (2) increase the opening funds in the 2010/11 Budget from \$4,217,709 to \$5,368,555 in order to reflect the closing position for 2009/10 and maintain a balanced budget position; and
- (3) receive the final copy of the June 2010 Monthly Financial Activity Statement.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL****COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr H Attrill that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/0****Background**

When Council adopted its Budget for the 2010/11 financial year, estimates were used for the carried forward works and projects. This was necessary due to the adoption of the budget before the finalisation of the previous year's accounts. The accounts have now been finalised (subject to audit) and the final carried forward balances determined, as well as the closing funds (budget surplus).

**Submission**

N/A



## Report

As the final figures have now been calculated for the carried forward works and projects, the 2010/11 Budget needs to be amended to reflect the true amounts, rather than the estimates used at the time of adopting the budget. Also, required to be included, are several projects (since identified) that were initially missed from the adopted carried forwards list.

A schedule of the proposed amendments to the carried forwards is attached to the agenda, showing a net overall impact of an increased municipal funding requirement totalling \$1,150,846. Of this amount, \$1,025,680 relates to missed carried forwards with the balance being for adjustments to those carried forwards already included in the adopted budget.

The budget surplus (closing funds) for 2009/10 has been calculated at \$5,368,555 (subject to audit) versus the forecast included in the adopted budget of \$4,217,709. Whilst on the surface this represents an increase in surplus of \$1,150,846, the initial calculation for extra municipal funding necessary to cover adjusted and missed carried forwards, was well in excess of this amount.

In order to maintain a balanced budget for the 2010/11 financial year, the budgets for several missed carried forward projects have been reduced. This measure has ensured that the increased surplus funds identified matches the extra municipal funding required to cover increased carried forward costs (as per the attached schedule), thus keeping the budget in balance.

In determining which project budgets should be trimmed, a management review of those missed carried forward projects funded by municipal was undertaken. This process identified three projects that were unlikely to expend (in full) their unexpired 2009/10 budget during the remainder of the current year, these being:

1. Catherine Point Groyne Extension - \$173,765 (reduced to \$20,000).
2. Bibra Lake MP Implementation - \$344,138 (reduced to \$228,178).
3. North Coogee Foreshore MP Implementation - \$383,790 (reduced to \$200,000).

Whilst funding for these projects has been necessarily trimmed back in 2010/11 as detailed above, it should be acknowledged that more than likely, some reinstatement will be required in the following year in order to meet established plans and Council commitments.

The major item impacting the increase in surplus amount of \$1,150,846 was an advance payment of the 2010/11 Financial Assistance Grants



(FAGS) for \$743,129 (received by the City in June). Consequently, the City will be receiving reduced compensating quarterly payments during this year, although this will not impact on the 2010/11 budget due to it already being factored in.

A final copy of the June monthly Financial Activity Statement has been submitted to Council, as the previous one was interim in nature and subject to end of year processing. This provides the closing funds position for the 2009/10 financial year of \$5,368,555 as previously referred to.

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To develop and maintain a financially sustainable City.

### **Budget/Financial Implications**

The Budget will be amended by \$2,436, 833 to reflect the final and true value for carried forward works and projects and to include missed carried forward projects. The budget for opening funds will be adjusted to \$5,368,555 to match the closing position for the 2009/10 financial year.

### **Legal Implications**

N/A

### **Community Consultation**

N/A

### **Attachment(s)**

1. Schedule containing a reconciliation of the carried forwards included in the 2010/11 adopted Budget.
2. June monthly Statement of Financial Activity.

### **Advice to Proponent(s)/Submissioners**

N/A

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 **(MINUTE NO 4375) (OCM 14/10/2010) - TEMPORARY CLOSURE OF COOGEE ROAD, ALBION AVE, FROBISHER AVE AND HOBSON AVE IN LAKE COOGEE STAGE 2 SUBDIVISION TO THE PASSAGE OF VEHICLES APPLICANT: CITY OF COCKBURN (4201Z) (S HUSSAIN) (ATTACH)**

**RECOMMENDATION**

That Council in accordance with Section 3.50 of the Local Government Act 1995, institutes a temporary closure of a section of Coogee Road, Albion Ave, Frobisher Ave and Hobson Ave for a period of up to 24 weeks commencing 28 October 2010 during the construction of the development on Lake Coogee Stage 2 subject to:-

1. There being no substantial objection received as a result of advertising in a local newspaper.
2. There being no substantial objection from service authorities, emergency services or adjoining owners.
3. The developer to engage a traffic management contractor to submit a certified traffic management plan to monitor and control traffic movements due to the closure.
4. All works on existing City infrastructure (roads, footpaths, drainage, parks or verges) are to be completed and reinstated in accordance with the "Public Utilities Code of Practice 2000", "Restoration and Reinstatement Specification for Local Government 2002" and the City of Cockburn "Excavation Reinstatement Standards 2002" as a minimum. The proponent is fully responsible for public liability and damages arising from the works.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

Lake Coogee subdivision has been approved by Western Australian Planning Commission, as part of the approval the developer has to reconstruct a section of Coogee Road, Albion Ave, Frobisher Ave and



Hobson Ave. Stage 1 works of the subdivision have already been completed and Stage 2 works are currently underway.

### **Submission**

DM Civil, the developer's appointed contractor to carry out the construction works on Lake Coogee subdivision, has requested Council to implement procedures to close a section of Coogee Road, Albion Ave, Frobisher Ave and Hobson Ave for a period of 24 weeks during the construction of the development of Stage 2 of the subdivision.

### **Report**

During the construction activities of Lake Coogee Stage 2 subdivision works the road closures will be required for the following reasons:

1. As per the planning approval of the subdivision, the developer is required to upgrade a section of Coogee Road, Albion Ave, Frobisher Ave and Hobson Ave. The upgrading works involve total reconstruction of these sections of the roads and also drainage and sewer works. Road closure is therefore required to carry out the works in a safe manner.
2. All these roads carry very low volume of traffic and the closure will not have any impact on the traffic flow surrounding the area. Detour signs are to be in place prior to the closure. All detour pavements are in good condition and also the short detour lengths will not cause any lengthy delay.
3. Access to the local traffic will not be affected by this closure; access to the existing houses within the development will always be maintained.
4. DM Civil has appointed a certified traffic management contractor (ATM) to monitor the impact of the road closure on the area. ATM has already submitted a traffic management plan which is in line with Australian Standards and Main Roads field guidelines. City has no issue with the traffic management plan and the closure will not create any undue congestion. Advance warning signs have also been installed and an advice of the proposed closure is placed in both the local newspaper and West Australian newspaper.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure development will enhance the levels of amenity currently enjoyed by the community.



**Transport Optimisation**

- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

**Budget/Financial Implications**

All costs to the closure will be covered by the Developer.

**Legal Implications**

Section 3.50 of the Local Government Act.

**Community Consultation**

To be advertised in a local newspaper and letters to be sent to service authorities, emergency services and adjoining owners advised.

**Attachment(s)**

Plan of the closure

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES**

**17.1 (MINUTE NO 4376) (OCM 14/10/2010) - COOGEE BEACH SURF LIFE SAVING CLUB - BUILDING DESIGN (CR/M/106) (R AVARD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the building design for the Coogee Beach Surf Life Saving Club (Inc.) facilities and public amenities development as attached to the Agenda; and
- (2) consider any allocation of funding toward the development of the club rooms and the public amenities for the Coogee Beach Surf Life Saving Club (Inc.) following receipt of advice from the Club on the preferred tender, scheduled for February 2011, in accordance with the proposed development schedule.





**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

A Memorandum of Understanding (MOU) between the City of Cockburn and the Surf Club was approved by Council at its meeting of 12 July 2007.

The salient points within the MOU are as follows:

- *All aspects of the building works contract will be the responsibility of the Club.*
- *The project architect shall be approved by the Department of Housing and Works for a project of this nature.*
- *The Council is required to approve the building design and specifications prior to the building contract being let by the Club.*
- *Other than the current commitment by Council of \$1,000,000 all other project funds are to be sourced by the Club.*
- *On completion of the project all day-to-day management, service and maintenance costs will be the responsibility of the Club.*
- *There will be a lease established between the City and the Club that will be at least 15 years in duration.*
- *A lease fee will be struck which recognises the benevolent and community service nature of the Club as tenant.*

*At this meeting Council also approved a budget allocation of \$360,000 for architectural and consultancy services for the project.*

At its meeting of 13 March 2008 Council resolved as follows:

- (1) *approve the Development Master plan and Building design for the Regional Surf Life Saving Club and Multi- Purpose Community facility and new Regional Beach Access Node at Poore Grove, Coogee.*
- (2) *consider any further allocation of funds to the new Regional Beach Access Node at Poore Grove, Coogee in the context of the Plan for the Future of the District.*



The City received a grant from the Commonwealth Government of \$2,000,000 to go towards the development of the Poore Grove beach access node and infrastructure works to accommodate the development of club facilities and community amenities. The Commonwealth funds were utilised to develop the first stage of the project which was for parking, lighting, picnic areas, services connection, preparation works and revegetation and there remains an obligation to the Commonwealth to complete the clubrooms and public amenities by the end of 2012.

The Club had been notified in March 2010 of grants from the State Government through the Community Sporting Recreation Fund (CSRFF) of \$750,000 and from Lotterywest for \$500,000. The Club has also received a number of smaller grants for revegetation projects associated with the site and for sustainability initiatives.

### **Submission**

N/A

### **Report**

The construction of the parking area and associated facilities at the Poore Grove access node has been contracted out with the project managed by the City and is due for completion in December 2010.

The Coogee Beach Surf Life Saving Club in accordance with the MOU has appointed Bateman Grundmann Architects to carry out design, documentation and contract management for the construction of the building to accommodate the Surf Club and some public amenities. The tender documentation is completed and the works are ready to go to tender. The tender documentation has been prepared to allow for basic occupation of the building to the minimum standard required by the City's Health and Building Departments. The more advanced fit out will be done by the Club over time using donated funds, revenue generated from the Club and contributions of materials and labour.

As a means to reduce the project cost the Surf Life Saving Club has sought sponsorship and donations towards the project. A detailed bill of quantities has been prepared for tender and a list of preferred suppliers identified who have indicated an interest in providing discounted prices to builders.

The indicative tender price provided by Davis Langdon Quantity Surveyors is \$7,492,000 based on the assumption of a market based fixed price tender. Davis Langdon has indicated that due to the depressed building sector in the State, the actual tender price could be between 15% and 30% below the estimate. There could be a further reduction in the tendered prices with the factoring in of reduced prices



for building elements provided by the preferred suppliers. Given the uncertain nature of the building industry at this time and the donations/reduced cost opportunities identified it is difficult to determine with any degree of certainty the tender price for this project.

A project development schedule is attached to the Agenda with the critical matters identified as follows:

- Preparation of agreement to lease between the City of Cockburn and the Coogee Beach Surf Life Saving Club (Inc.) for presentation to Council in November 2010.
- Building works tender closes December 2010.
- Council consideration of building works tender February 2011.
- Construction to begin, subject to Council agreement to funding in accordance with the tender price, in April 2011.
- Construction anticipated to be completed in 2012.

The Coogee Beach Surf Life Saving Club (Inc.) will tender the works through the appointed architect. The Club's Board has diversified skilled members and has established a building management committee with a membership that has strong project management and building experience which will complement the skills of the Architect's consulting team. An employee of the City will be available to attend all meetings associated with the building.

Should Council agree to contribute funds toward the project it is proposed that payments to the Club for building works will be required to be certified by the project Architect prior to the City approving payments.

### **Strategic Plan/Policy Implications**

#### **Infrastructure Development**

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

#### **Lifestyle and Aspiration Achievement**

- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.



## Budget/Financial Implications

Davis Langdon Quantity Surveyors has provided a revised cost estimate for the project based on very conservative estimates and on the assumption that the works would go to tender without preferred providers giving discounts/donations. Davis Langdon's price is summarised as follows.

• Construction works	\$6,992,000
• Construction contingency 5%	\$350,000
• Balance of Fees	\$150,000
• <b>Total</b>	<b>\$7,492,000</b>

*Note: all figures exclude GST.*

Council has placed funds on its Municipal Budget as its contribution towards the cost of construction of facilities for the Coogee Beach Surf Life Saving Club as follows:

• \$300,000	2010/11
• \$1,000,000	2011/12*
• \$1,000,000	2012/13*
• \$200,000	Balance left over stage 1

In addition there is \$1,250,000 available to the Club from the State Government through CSRFF and Lotterywest funding. The total funds currently available are \$3,750,000.

*\*Please note that the Plan for the District shows a developer contribution of \$2,610,000 toward the Coogee Beach Surf Life Saving Club (Inc.) project. Council resolved at its meeting of June 2010 to underwrite the project for \$2,000,000 should the developer contribution framework not proceed for this project.*

## Legal Implications

An agreement to lease and formal documentation will be required between the City and the Club and will also need to specify the responsibilities of the respective parties in relation to the development of the facility. This document will be presented to Council for consideration in November, 2010.

The City is exempted in this case from the requirements of Section 3.58 of the Local Government Act, 1995, by way of the Clause under the Local Government (Functions and General regulations) 1996 Section 30 (b) (i) that the Coogee Beach Surf Life Saving Club (Inc.) is deemed to be an organisation, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.



### Community Consultation

The location of the Coogee Beach Surf Life Saving Club (Inc.) on Poore Grove was included in the Coogee Beach Structure Plan that was advertised for public comment in mid-2004 and was adopted by Council at its meeting of 19 October 2004.

A development application was submitted to the Department of Planning and Infrastructure, the processing of which required submissions on the application from the Coastal Planning Branch of DPI; Department of Environment and Conservation (previously CALM); and the Department of the Environment. The proposal was also discussed with the Woodman Point Advisory Committee and an on site meeting held with the WA Conservation Council.

The consultation process followed met the requirements of the WAPC, which approved the development application in March 2007 and placed a number of conditions on the development.

### Attachment(s)

1. Project development schedule.
2. Coogee Beach Surf Life Saving Clubrooms and public amenities building design and floor plan specifications.

### Advice to Proponent(s)/Submissioners

The Proponent(s) and Government Agencies which lodged a submission have been advised that this matter is to be considered at the October 2010 Council Meeting

### Implications of Section 3.18(3) Local Government Act, 1995

The provision of recreational and public facilities for beach areas are within the role of Local Government.

- 17.2 **(MINUTE NO 4377) (OCM 14/10/2010) - COCKBURN BOWLING AND RECREATION CLUB - OPERATIONAL REVIEW AND BUSINESS PLAN FOR THE DEVELOPMENT OF FACILITIES AND PROPOSED RELOCATION TO VISKO PARK - LOCATION: RESERVE NO. 47278 BAYVIEW TERRACE, YANGETUP; OWNER: STATE OF WESTERN AUSTRALIA (2211869) (A LACQUIERE) (ATTACH)**

### RECOMMENDATION

That Council:

- (1) receive the report prepared by Con O'Brien Management Consultant, outlining a review and proposed Business Plan for



the Cockburn Bowling and Recreation Club;

- (2) enter into dialogue with the current office bearers of the Club on:
  1. The potential for the Club to meet the expectations of managing a new facility in accordance with the principles mentioned in the review, particularly in regard to adopting changes to its management structure and membership voting rights.
  2. The capacity of the Club to be financially self-sustainable in the future, given the funding issues raised in the review, proposed Business Plan and this report; and
- (3) consider the future re-location of the Club to new facilities at Visko Park, Yangebup, following the outcomes of (2) above, by no later than April 2011, in a report to be presented to Council.

**COUNCIL DECISION**

MOVED Cllr C Reeve-Fowkes SECONDED Cllr I Whitfield that Council adopt the recommendation with the following amendment to sub-recommendation (3):

- (1) as recommended;
- (2) as recommended; and
- (3) consider the future re-location of the Club to new facilities at Visko Park, Yangebup, following the outcomes of (2) above, by February 2011 or no later than April 2011, in a report to be presented to Council.

**CARRIED 6/0**

**Reason for Decision**

The current executive of the Club are keen to progress this matter and have expressed a commitment to work in conjunction with Council staff to achieve an agreed position by February 2011.

**Background**

Visko Park comprises two lots with a total combined area of approximately 3.9711 hectares and is located on the corner of Beelihar Drive and Birchley Road, Yangebup (refer Attachment 1). The park



falls within the area of the Structure Plan for Cell 9, Yangebup, which was adopted by Council on 19 June, 2001 and subsequently endorsed by the Western Australian Planning Commission (WAPC) on 29 October, 2004.

DPI has now formally approved the excision of a portion of the reserve for the potential to relocate the Cockburn Bowling and Recreation Club to Visko Park.

With the approval granted from DPI, the City advertised for a consultant to carry out a review of the existing Club operations and prepare a Business Plan for the possible relocation of the Club. In September, 2009, requests for quotation were called and as a result Mr. Con O'Brien, Management Consultant, was agreed between the City and the Club to carry out the review. A number of meetings were held between representatives of the Club and the City with the consultant. The Cockburn Bowling and Recreation Club report and Business Plan was developed and agreed to as a reasonable assessment by all parties in May, 2010 (refer Attachment 2), prior to being available for comment by the Club's membership base.

### **Submission**

N/A

### **Report**

The proposed Bowling Club on Visko Park will see the Cockburn Bowling and Recreation Club relocate from its existing facilities and take up a lease at the new facility at Visko Park. The new facility represents a significant investment for Council and the ability for an organisation to properly manage the newly built asset, ensure that it is maintained to a high standard and offer a quality service, is of critical importance. A Concept Plan for the location of the Club on the site has been prepared by Peter Hunt Architects and used as the basis for discussion with the Club and for the consultation process (refer Attachment 3).

The objectives of the review was to analyse and address the following critical matters:

1. The current operations and structure of the Club, including:
  - current business operations
  - current business model
  - structure, management and membership
  - limitations of current operations and structure
  - current financial position
2. The requirements for successful operations of the proposed new facility, including:



- appropriate business model (or models) and structure for the proposed facility
  - initial income and expense estimates for a new facility
  - business plan for first three years of operations
3. The requirements for the Club to effectively manage the new facility, including:
- preferred business model
  - recommendations for structural and/or operational changes, if appropriate
  - recommendations for milestones/objectives for the Club in developing the leasing process with the City
  - Requirements for the Club to successfully operate at the proposed new facility
  - Requirements for the Club to effectively manage the new facility

Some of the related key findings in the report included:

- Bar sales are by far the most significant (and critical) source of revenue and the Club's operating activities (including bowling operations and facilities management) are effectively funded through bar trading profits.
- Membership data indicates that most social members live in relatively close proximity to the existing facility. There is very likely to be a loss of existing social members and/or their patronage after relocation.
- The Club needs to ensure that there is an on-site facility offering good quality and reasonably-priced food and refreshments if it is to attract residents to the site. It will need to adopt an operating model which is seen to be 'family friendly'.
- The most financially feasible option for providing food and refreshments is a restaurant/café operation owned and managed by an appropriate experienced person who would lease the relevant space from the Club ('contracting out model').
- The Club should consider formalising its governance structure, potentially replacing the current management committee with a board of directors elected from ordinary and social members.

In summary, the report outlines that the Club and the City face a number of serious challenges for a proposed relocation. However, if the Club can take advantage of the new and expanding demographics in the area surrounding Visko Park, there is considerable potential for it to develop a strong and active membership and become a very successful community facility.





It is questionable whether the Club under its current regime could manage a new facility at Visko Park and therefore it is critical that the City ensures the management structure of a new facility reflects a model that will have good business practice in a community club setting. Formalising a new management structure and business plan will be required prior to the new facility opening.

Currently the Club owes in excess of \$22,000 to the City, made up of utility charges and annual rent owed since 2007. In a letter dated 15 September 2010, the Club challenged the amount outstanding and in addition have sought a contribution of \$10,000 towards the replacement of an airconditioner. These matters are yet to be formally resolved, however, City Staff believe the amount owed is reflective of the Club's obligations under the current leasing arrangements.

There is also conjecture that some existing members have concerns in relocating the Club to Visko Park or out of the Spearwood area, as noted in the submissions received (refer Attachment 4). This may result in some current membership losses should the move occur, however, this is expected in relocations of this nature. It is likely that a good marketing campaign would increase membership numbers given the new opportunities of moving to a growth area of the City.

### **Strategic Plan/Policy Implications**

#### **Infrastructure Development**

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

### **Budget/Financial Implications**

Council's Plan for the District, 2010 – 2020, adopted in June, 2010, identifies a total project cost for this proposal of \$6.9 million and provides for the facility to be completed by June, 2014.

The proposed funding sources are identified as \$3.84 million to be funded by the City of Cockburn (of which \$1.86 million is to be provided through the Developer Contributions Framework) and \$3.06 million



sourced through external funds. While it is possible for some funding to be applied for through the State Government Community Sporting and Recreation Facilities Fund, there is no guarantee that this will be successful. Hence, given the apparent limited financial capacity of the Club to fund any shortfall, this is a matter to which Council must give serious consideration prior to committing further.

Conceptually, the City has envisaged that the municipal portion of the committed funding (ie \$1.98 million) would be contributed from the eventual sale of the land upon which the current Club is located, as part of the development of the Civic Centre site in the context of the Phoenix Revitalisation Plan. However, this process has not formally commenced and is likely to take some years to come to fruition, if accepted by Council as a preferred development option.

In addition, Council would be required to comply with the disposal of land provisions of the Local Government Act, 1995, if necessary, as the result of any commercial decisions made in relation to the current Club site.

### **Legal Implications**

Land tenure issues require formalising before either the current Club can relocate to Visko Park or a relocated Club can occupy new premises there. It would be expected that the Club would relinquish its current Lease Agreement (which expires in 2016), upon all parties reaching consensus on the terms and conditions of any relocation in the future.

### **Community Consultation**

In May, 2010, the City invited all members of the Club to provide comments on the report in a letter dated 20 May, 2010, with responses to be provided by 30 June, 2010. There were no comments received by the due date although a number of members sourced copies of the report. Following a meeting with several members of the Club held on 8 July, 2010 with the Mayor and the City's Manager of Community Services, it was agreed the comment period would be extended to 30 July, 2010.

Approximately 55 proforma responses have been received, many of which did not actually respond to the report but advised, for various reasons, that they were against moving from the current site or out of Spearwood (91%). Of the few comments that did relate to the report, those members reflected that the objectives and financial viability outlined in the report were either factually questionable, unrealistic or unachievable.



**Attachment(s)**

1. Aerial Image – Visko Park.
2. Cockburn Bowling and Recreation Club – Review and Business Plan for the development of a proposed facility at Visko Park, Yangebup. (prepared by Con O'Brien Management Consultant).
3. Concept Plan of proposed new facility at Visko Park.
4. Responses to independent survey by current Bowling Club Members.

**Advice to Proponent(s)/Submissioners**

The Cockburn Bowling Club and those who lodged a submission have been advised that the matter is to be presented to the Council Meeting on 14 October, 2010.

**Implications of Section 3.18(3) Local Government Act, 1995**

Local government authorities have traditionally been responsible for the development of (lawn) bowling facilities in this State.

**17.3 (MINUTE NO 4378) (OCM 14/10/2010) - LEASE - RESERVE NO. 27691 REDMOND ROAD, HAMILTON HILL - MS SOCIETY (2200881) (G BOWMAN) (ATTACH)**

**RECOMMENDATION**

That Council enter an agreement with the MS Society of WA (Inc) to lease Reserve 27691 Redmond Road, Hamilton Hill as attached to the Agenda, subject to the following conditions:

- (1) a lease period of 21 years;
- (2) for a peppercorn rental annually and the payment of all outgoings and charges is the responsibility of the MS Society;
- (3) the MS Society to construct a building on the site at their cost, suitable for a Respite Care Centre, within a period of five years;
- (4) to ensure that the Respite Care Centre is constructed in accordance with the Building Code of Australia;
- (5) the capacity to sub-let the premises or portions of the premises subject to the agreement of the City;
- (6) insurance of the building, contents and public liability to be the responsibility of the MS Society;
- (7) to provide priority access to the Respite Care Centre to eligible City of Cockburn residents where feasible;



- (8) the Lessees or Assignees to maintain, repair and keep the premises in good and substantial repair (fair wear and tear accepted); and
- (9) other terms and conditions which may be required to protect the interests of the City.

**COUNCIL DECISION**

MOVED Cllr T Romano SECONDED Cllr S Limbert that the recommendation be adopted.

**CARRIED 6/0**

**Background**

On 13 May 2010 Council resolved that it provides in-principle support to the MS Society of WA (Inc) ("MS Society") for the development of a respite home on Reserve 27691 Redmond Road, Hamilton Hill. This Reserve constitutes 807m<sup>2</sup> of land with no identified function for current or future public open space and is surplus to the recreational needs of the surrounding area.

**Submission**

The Minister for Lands has agreed to amend the Management Order by changing the purpose to 'Respite Care' with the power to lease to enable the MS Society Respite House development to proceed. The MS Society is now requesting a long term lease of Reserve 27691 for the purpose of a Respite Care facility for people with Multiple Sclerosis and similar Neurological disease.

**Report**

The City received correspondence from the Western Australian Planning Commission advising that there is no objection to the proposal to change the reserve status of Reserve 27691 from 'Park and Recreation' to 'Respite Care'.

The Minister for Lands has not granted the MS Society conditional tenure for Reserve 27691 Redmond Road, Hamilton Hill, pursuant to Section 75 of the *Land Administration Act 1997*.

However, in order to support the development of the Respite Care Centre State Land Services has amended the Management Order for Reserve 27691 for the designated purpose of 'Respite Care' with the



power to lease (or sub-lease or licence) for up to 21 years, pursuant to provisions of the Land Administration Act 1997.

The City of Cockburn is therefore in a position to enter into a Lease agreement with the MS Society for a peppercorn rent. The purpose and intent of the land use will remain unchanged.

The proposed maximum 21 year lease will provide stability for the MS Society due to the significant economic investment that the Disability Services Commission and the MS Society will make towards the construction and operation of the Respite Care facility.

Crown land is exempt from the requirements of the Building Code of Australia, so it is proposed that the Lease include a clause to ensure that the Building Code of Australia standards apply to the development.

Due to the City's support of the Disability Housing and Respite Care Project the MS Society has agreed to provide eligible Cockburn Residents priority access to the respite facility where possible.

### **Strategic Plan/Policy Implications**

#### **Infrastructure Development**

- To construct and maintain community facilities that meet community needs.

#### **Budget/Financial Implications**

The lease arrangement will not result in any increase in costs for the City of Cockburn.

The costs for the preparation of the lease agreement will be borne by the MS Society.

#### **Legal Implications**

The Local Government is exempted from the requirements of Section 3.58 of the Local Government Act by way of the Clause under the Local Government (Functions and General regulations) 1996 Section 30 (b) (i) that the MS Society is deemed to be an organisation that has the *objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.*

#### **Community Consultation**

Consultation has been undertaken with surrounding residents who have not raised any objection to the proposal.



**Attachment(s)**

1. Site Plan
2. Council report dated 13 May 2010

**Advice to Proponent(s)/Submissioners**

The Proponent(s) have been advised that this matter is to be considered at the 14 October 2010 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**18. EXECUTIVE DIVISION ISSUES**

Nil

**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

Nil

**21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**

- 21.1 **(MINUTE NO 4379)** (OCM 14/10/2010) - PARLIAMENTARY INQUIRY - COCKBURN CEMENT LIMITED - LOCATION: LOT 242 RUSSELL ROAD, MUNSTER - OWNER: COCKBURN CEMENT LIMITED - APPLICANT: N/A (3411123) (N JONES / D ARNDT) (ATTACH)

**RECOMMENDATION**

That Council:

- (1) lodge a submission on the Environment and Public Affairs Committee's Inquiry into Cockburn Cement Limited based on the issues raised in the Officer's report; and
- (2) advise the Environment and Public Affairs Committee that it wishes to make an appearance at any hearing conducted by the Committee.



**COUNCIL DECISION**

MOVED Mayor L Howlett SECONDED Cllr C Reeve-Fowkes that Council:

- (1) lodge a submission on the Environment and Public Affairs Committee's Inquiry into Cockburn Cement Limited based on the issues raised in the Officer's report and that the City supports the request of the Cockburn Sound Management Council that the Inquiry be extended to an investigation of the operations of the wash plant and the impacts on Cockburn Sound and Owen Anchorage; and
- (2) as recommended.

**CARRIED 6/0**

**Reason for Decision**

The City has recently been made aware of concerns raised by the Cockburn Sound Management Council (CSMC) in relation to the impacts of the warm turbid water on seagrass health, recreational swimming, boating and visual amenity around northern Woodman Point. As stated in the report on this matter the City is not the regulator of Cockburn Cement Limited (CCL) and is not privy to the monitoring information relating to the operations either at the cement plant or at the wash plant where the shell sand is transferred to the pipeline. The City assumes that the Department of Environmental Conservation (DEC) ensures that CCL are complying with their licence conditions. An assessment of aerial photos of the wash plant area show that there are significant plumes of turbidity extending in all directions away from the wash plant on regular occasions. The City therefore considers it appropriate that the Inquiry be extended to include an investigation of the operations of the wash plant and its impact on Cockburn Sound and that a 'Best Available Technology' assessment be carried out by CCL and DEC to ensure that impacts from the wash plant are being minimised appropriately.

**Background**

Cockburn Cement is the major producer of cement and lime in Western Australia. Construction of the Munster plant commenced in 1953 and manufacturing started in August 1955 and since then, the plant has grown steadily for more than 50 years to meet the State's growing demand for its products. The demand for building products has been created by the Perth's growth into a major population centre, which has



required cement for housing and buildings, along with the development of major infrastructure such as roads, railways and bridges to service an expanding city.

The plant has operated successfully from a commercial point of view for the last 50 years and currently employs about 350 personnel over its various sites in WA. Cockburn Cement however has not operated without ongoing concerns from the local community and environmental groups. Complaints about odour, dust and ash fallout affecting residents, local farmers and market gardeners as well as complaints about noise from the plant have been noted as far back as 30 years ago. Concern about the amount of sand and shell being mined from Woodman Point sand washing operations and its affect on local sea grass has also been recorded.

Cockburn Cement has endeavoured to undertake many changes to reduce its impact on the community and environment and in 2002 established its Environmental Improvement Program. Through this program, many initiatives have been undertaken to improve its environmental impact, and communication with the community.

### **Submission**

On the 15 September 2010 the State Parliament's Environment and Public Affairs Committee convened an Inquiry into Cockburn Cement Limited. The Committee's terms of reference are as follows:

The Committee is to inquire into and report on:

1. Health, environmental, dust, odour, property and other concerns arising out of the operation of the Cockburn Cement Ltd plant, Munster;
2. The adequacy of action to address the above concerns;
3. The process of issuing and amending licences; and
4. Any other relevant matter.

The Committee has written to the City inviting the City to make a written submission on their inquiry into Cockburn Cement. The closing date for submissions is 5 November 2010.

### **Report**

#### **Parliamentary Inquiry into Cockburn Cement**

In April 2010 the City made a submission (attached) to Department of Environment and Conservation (DEC) on a review of the licence conditions for Cockburn Cement (CCL). In summary, the City believes that for about the past 2 years there have been unreasonable emissions of odour and lime kiln dust (LKD) due to an unacceptable frequency of 'trips', which cause a temporary failure of the Electrostatic Precipitator (ESP) filters on kiln 6. The emissions potentially will be





reduced to acceptable levels once the proposed bag house filters are installed in early 2012. The City believes that the DEC should thoroughly investigate the cause of the trips and if by 1 January 2011 the frequency cannot be reduced to less than 8 per month then the kiln should be shut down until the bag house is installed.

Health, Environmental, Dust, Odour, Property and Other Concerns arising out of the operation of Cockburn Cement Limited.

The 1.5km distance from the main kiln stacks to the Kwinana Air Quality Buffer has been established for more than 20 years. The City has consistently not supported any application for residential subdivisions inside the buffer but it is impossible for the City to refuse a similar application for land situated outside the buffer because there is no evidence to indicate that emissions from CCL exceed acceptable levels at locations outside the buffer. The City is confident that CCL are able to use appropriate technology to retain their emissions within the 1.5km buffer. The City accepts that people living in existing houses within the buffer may be exposed to higher levels of dust and noise due to their proximity to CCL but these levels should not be unhealthy to a person who is not susceptible to exposure to dust such as chronic asthmatics or people with respiratory problems.

The City's information relating to the emissions is based upon advice from CCL and DEC because the City does not have a regulatory role in relation to CCL and is not authorised or expected to request or review any monitoring data. Any complaints from residents received by the City are routinely referred to DEC for action.

Independent investigations of the emissions from CCL carried out in 2003 and 2005 drew the same conclusion as the recent 2010 Katestone Report (attached), in that stack emission data when combined with modelling of ground level concentrations indicate that emissions are predicted to be at safe levels in residential areas. The WA Department of Health (DoH) drew the same conclusion in 2005. The City therefore is reasonably confident that under normal operating conditions there should be no significant concerns about the nature of the emissions from CCL although there is an expectation that CCL will continually strive to reduce their emissions. However the problem relates to the emissions during upset or trip conditions.

The City does not accept the suggestion that the dust and odour emissions have remained stable for 10+ years and that complaints have increased with the population growth in the new suburb of Beeliar. Strong anecdotal evidence from long term residents of the Britannia Avenue Beeliar indicate that the dust and odour emissions commenced once Kiln 6 was commissioned in 1996. The emissions have become more frequent over the past 2 years.



The cause of the complaints is the tripping of the ESP on kiln 6 with subsequent LKD uncontrolled discharge from the stack for several minutes at a time. The LKD falls out within about 1-3km of the stack depending upon the wind speed and direction. Cars, houses and properties are covered in a thin layer of light coloured dust that sticks to surfaces and is difficult to remove. The dust causes gutters to corrode and solar panels to cease operating effectively.

Long term residents report that trips to kiln 6 were far less frequent in past years and that CCL were far more willing to clean resident's vehicles and property. In the past 2 years the frequency of trips has increased to 51 events in April 2010 which is more than once per day. The City believes that residents would accept being impacted by dust on rare occasions of say once every 6 months where CCL provided assistance to clean and repair the damage, but the current frequency is simply intolerable.

A very common concern in the community is that "if the LKD is sticking to my car and rotting my gutters then is it damaging my family's lungs?" Complaints have recently been made about blood noses and sore eyes and noses especially in children. In response to these complaints, in July 2010 the Minister for Health Dr Kim Haymes requested the DoH to carry out dust sampling in residential areas and the City is currently assisting in this project. The focus of the sampling is the capture of dust from a trip to determine the volume and chemical constituents of the dust from a health/toxicological perspective.

The City believes that DEC is also focusing additional attention on trips and investigating whether there is a link between trips to Kiln 6 and high dust events at the dust monitoring site in Tindal Avenue near to CCL.

CCL have concluded that there is sufficient justification to replace the ESP in kiln 6 with bag house filters to be installed early in 2012 at a cost of \$24million. This will be the largest investment in infrastructure at the plant since the construction of kiln 6 in 1996. Given the problems with the operational stability of kiln 6 the City is pleased to hear of this upgrade, but considers that it is well overdue.

Odour became a particular problem for residents after kiln 6 was commissioned and the frequency and intensity of the odour increased in the past 5 years most likely with the introduction of water sprayers into the kiln aimed at improving the effectiveness of the ESP. As water injection will not be necessary after the installation of the bag house filters it is likely that odours will be significantly reduced.

There is little doubt that the bag house filters will provide a similar performance to the ESP but significantly there will be no more trips and dust events will cease. Therefore the solution to the current dust and odour problems is the installation of bag house filters to kiln 6 in early



2012. The immediate issue however relates to the current unacceptable operation of kiln 6 in the mean time. The City believes that the DEC should thoroughly investigate the cause of the trips and if by 1 January 2011 the frequency cannot be reduced to less than 8 per month then the kiln should be shut down until the bag house filter is installed. The proposed maximum frequency of trips may be increased or decreased depending upon the results of the current project by DoH and the City of sampling dust in residential areas.

Adequacy of Actions to Address the Above Concerns.

In it's submission to DEC on the proposed licence the City acknowledged lack of resourcing as a common issue that was recognised in the independent review in 2005. The City requested that at least one full time officer be allocated to monitor CCL until the dust and odour problems are addressed. The DEC has not effectively regulated CCL and there are several issues that warrant further investigation.

Inadequate resources have been allocated to ensure that complaints could be properly investigated, and/or that monitoring data could be properly interrogated, and/or that DEC officers could recognise that trips to kiln 6 have been far too frequent. A common complaint of DEC officers is that the licence must allow the kiln to continue to operate for several minutes after the ESP has shut down due to the risk of explosion of unburnt fuel if the ESP is switched back on. During this period the "chimney sneezes" and dust emissions are uncontrolled. This scenario may be acceptable where trips are rare but is completely unacceptable when it happens up to 51 times a month.

DEC officers also complain that the process of developing licence conditions involves the opinion of far too many senior officers who often have conflicting opinions. Similarly when consideration is given to prosecute a company for breaching licence conditions the legal opinions are almost certain to frustrate and complicate the situation resulting in extremely low number of cases taken. There is either a significant problem with the legislation, the licences, the legal advisers, the willingness of senior DEC officers (or possibly the Minister) to prosecute an offending industry, or all four of these issues.

The position of DoH is that DEC are the regulator and if DEC officers believe there is a health related issue then DEC should refer this to DoH for investigation. General complaints about health effects would only be investigated upon the request of either DEC or the Minister for Health. The City accepts this position because there does not appear to be sufficient evidence of health effects in the local population to justify the major intervention of the DoH.

The City has frequently advised concerned residents if they have a health related complaint they should visit their GP who may contact



specialist doctors and toxicologists in DoH for advice if necessary. To date no GP has contacted DoH otherwise they would have concluded that there are patients with similar symptoms that may be linked to CCL.

### The Process of Issuing and Amending Licences.

The DEC licensing process has been reviewed several times in the past and it currently appears to be in need of attention. It is difficult to determine whether there is a problem with the licences or with the application of the licence conditions. It is likely that inadequate resources have been allocated by DEC officers to ensure that licence conditions are complied with, and this should be investigated further.

The DEC has been unable to determine whether the dust and odour emissions have been excessive in residential areas because they have not carried out appropriate monitoring. The monitoring station in Tindal Avenue has not provided adequate information to enable DEC to take any action. The DEC is not able to conclude that the emissions are acceptable or not and this is a cause for concern for the community.

It is impossible for the DEC officer to fully understand the complexities of a heavy industrial plant. It is also inappropriate for the DEC to be prescriptive when deciding what technology should be used because this is the decision of the company taking into account a whole range of factors. The proposed new licence appears to address the need for CCL to upgrade emission controls and CCL have responded with the proposed bag house filters in kiln 6. This is a positive outcome and the City hopes that dust and odour levels will be acceptable once the bag house is installed. It is also hoped that the new licence will enable the DEC to monitor the levels of dust and odour after the bag house is installed to determine whether additional upgrades are necessary.

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

#### **Natural Environmental Management**

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.



**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

N/A

**Attachment(s)**

The following items were tabled as attachments to the item:

1. Submission on Cockburn Cement Ltd DEC Licence – April 2010
2. Cockburn Cement Ltd correspondence – Emission Control System review – June 2010
3. Cockburn Cement Ltd correspondence – Air Quality Impact Assessment – September 2010

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

**22 (OCM 14/10/2010) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

- 22.1 CLR TONY ROMANO requested that a report on the Cockburn Bowling Club relocation to Visko Park be prepared in a summarised version containing costings and a project timetable for completion.

**23. CONFIDENTIAL BUSINESS**

Nil



24 **(MINUTE NO 4380) (OCM 14/10/2010) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

That Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (3) managed efficiently and effectively.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr C Reeve-Fowkes that the recommendation be adopted.

**CARRIED 6/0**

25 **(OCM 14/10/2010) - CLOSURE OF MEETING**

**MEETING CLOSED AT 7.33PM**

**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

